

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KAREN L. SCHMIDT and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, Houston, TX

*Docket No. 00-2326; Submitted on the Record;
Issued May 29, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant sustained an injury in the performance of duty.

On February 15, 2000 appellant, a 34-year-old biological science laboratory technician, filed a notice of occupational disease and claim for compensation (Form CA-2), alleging that she sustained an injury to her right shoulder while in the performance of duty. She identified February 4, 2000 as the date she first became aware of her condition and appellant further indicated that on February 15, 2000 she realized her condition was caused or aggravated by her employment. She explained that her shoulder had "been bothering [her] before from working with the animal cages." The evidence that accompanied appellant's claim consisted of medical records from the employing establishment regarding treatment appellant received on February 15, 2000. Dr. Anna L. Kolpakchi, an employee health physician, reported findings of tenderness in the back, right scapular area and she diagnosed right upper back strain and right shoulder strain. She reported a history of injury as follows: "developed sharp pain in [right] scapular area while putting on her lab coat."¹ However, Dr. Kolpakchi's February 15, 2000 report did not include an opinion as to whether the diagnosed condition was related to appellant's employment.

By letter dated March 9, 2000, the Office of Workers' Compensation Programs requested that appellant submit additional factual and medical evidence in support of her claim. The Office specifically requested, among other things, that appellant provide a detailed description of the employment-related activities she believed contributed to her condition. Additionally, the Office advised appellant that the case would remain open for approximately 30 days in order to submit the requested information.

¹ In a separate report also dated February 15, 2000, a physician's assistant noted the following history of injury: "This morning her pain developed as she was putting on her lab coat. She had mild pain develop while sitting initially cleaning animal cages on [Friday February 4, 2000]. Developed pain in both shoulders. She was in awkward ... positions. She looks under cages to find females' young."

In a decision dated April 28, 2000, the Office denied appellant's claim on the basis that she failed to establish that she sustained an injury as alleged.

The Board finds that appellant has not met her burden of proof in establishing that she sustained an injury in the performance of duty.

In an occupational disease claim, in order to establish that an injury was sustained in the performance of duty, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by appellant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.²

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that the condition was caused, precipitated or aggravated by her employment is sufficient to establish a causal relationship.³ Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁴ A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant.⁵ Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and the claimant's specific employment factors.⁶

There is no indication from the record that appellant responded to the Office's March 9, 2000 request for additional factual and medical evidence. Appellant's statement that her shoulder had been bothering her before from "working with the animal cages" does not provide sufficient detail to ascertain what specific employment factors contributed to her claimed condition. While the February 15, 2000 treatment records provide some additional information regarding appellant's employment exposure, the notation that appellant was in "awkward ... positions" while sitting and cleaning animal cages also lacks sufficient detail. Furthermore, Dr. Kolpackchi's report is of limited probative value inasmuch as she did not reference appellant's prior history of cleaning animal cages and she did not offer an opinion as to the cause of appellant's condition.

² *Victor J. Woodhams*, 41 ECAB 345 (1989).

³ *Robert G. Morris*, 48 ECAB 238, 239 (1996).

⁴ *Id.*

⁵ *Victor J. Woodhams*, *supra* note 2.

⁶ *Id.*

As the record lacks both a detailed factual statement concerning the implicated employment factors and rationalized medical opinion evidence diagnosing a condition causally related to appellant's employment, appellant has failed to demonstrate that she sustained an injury in the performance of duty.⁷

The April 28, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
May 29, 2001

Michael J. Walsh
Chairman

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

⁷ *Victor J. Woodhams, supra* note 2.