

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ALFREDA M. MUHAMMAD and DEPARTMENT OF VETERANS
AFFAIRS, VETERANS ADMINISTRATION MEDICAL CENTER, St. Louis, MO

*Docket No. 01-669; Submitted on the Record;
Issued September 19, 2001*

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained a respiratory condition while in the performance of duty.

On September 1, 2000 appellant, then a 50-year-old secretary, filed a traumatic injury claim alleging that, on August 31, 1000, a mild paint odor aggravated her sensitivity to paint fumes and caused respiratory problems after exposure. Appellant stopped work on August 31, 2000 and returned to work the next day.

In a report dated September 5, 2000, Dr. Raj L. Shivaji, a Board-certified internist, stated that, “[d]ue to the painting near or around [appellant’s] work area, which have caused ... swelling and irritation in the throat, and breathing problems, I am excusing her from work effect (sic) August 21, 2000 until September 5, 2000.”

In a letter dated October 19, 2000, the Office of Workers’ Compensation Programs requested that appellant submit medical evidence in support of her claim.

In a report dated November 7, 2000, appellant stated that, when painting began in her adjacent office, swelling began around her throat and she became congestive. In a report dated November 7, 2000, Dr. Shivaji stated that he treated appellant on August 31, 2000 and that appellant was totally disabled from August 31 to September 4, 2000 from chest pains, respiratory problems, throat swelling and headaches. He noted by check mark that her conditions were caused by her employment activity.

By decision dated December 1, 2000, the Office found the evidence of record insufficient to establish that a specific event, incident or exposure occurred at the time, place and in the manner alleged and that appellant sustained an employment-related injury.

The Board finds that appellant has failed to meet her burden of proof to establish that she sustained an injury while in the performance of duty on August 31, 2000.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.² These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.⁴ An injury does not have to be confirmed by eyewitnesses in order to establish the fact that an employee sustained an injury in the performance of duty, as alleged, but the employee's statements must be consistent with the surrounding facts and circumstances and his subsequent course of action. He has the burden of establishing the occurrence of the alleged injury at the time, place and in the manner alleged, by a preponderance of the reliable, probative and substantial evidence. An employee has not met this burden when there are such inconsistencies in the evidence as to cast serious doubt upon the validity of the claim. However, his statement alleging that an injury occurred at a given time and manner is of great probative value and will stand unless refuted by substantial evidence.⁵

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.⁶

Appellant stated on her claim form that on August 31, 2000 "mild paint odor permeated the area to aggravate sensitivity to paint fumes." A witness stated that painters began working in the laboratory office on August 31, 2000. In an attending physician's report dated November 7, 2000, Dr. Shivaji stated that he initially treated appellant on August 31, 2000 for conditions associated with paint exposure that day.

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Daniel J. Overfield*, 42 ECAB 718 (1991).

⁴ *Elaine Pendleton*, *supra* note 2.

⁵ *Carmen Dickerson*, 36 ECAB 409 (1985).

⁶ *John M. Tornello*, 35 ECAB 234 (1983).

The Board finds that appellant's statements regarding the incident of August 31, 2000, a witness' affirmance of the facts and her doctor's report supporting the facts as alleged by appellant establish that the incident occurred at the time, place and in the manner alleged. However, the Board also finds that appellant has failed to establish that the incident caused a medical condition.

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence, *i.e.*, medical evidence presenting a physician's well-reasoned opinion on how the established factor of employment caused or contributed to the claimant's diagnosed condition. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established factor of employment.⁷

Dr. Shivaji's September 5, 2000 report noted that appellant's condition was caused by painting around her office. However, Dr. Shivaji's failed to provide sound medical rationale explaining how the incident of August 31, 2000 caused or aggravated appellant's condition. Dr. Shivaji did not discuss appellant's history of medical conditions caused by exposure to paint odors, including any significant prior conditions, and relevant clinical findings and diagnoses. Dr. Shivaji did not explain how paint odor on August 31, 2000 resulted in an injury disabling appellant for work.

It is well established that medical conclusions unsupported by rationale are of little probative value.⁸ Without sound medical rationale based on an accurate medical background, Dr. Shivaji's opinion, while supportive, is insufficient to meet appellant's burden of proof. Dr. Shivaji's November 7, 2000 report noted that appellant's condition was causally related to her employment. However, the Board has held that an opinion on causal relationship which consists only of a physician checking "yes" to a medical form report question on whether the claimant's condition was related to the history given is of little probative value. Without any explanation or rationale for the conclusion reached, such a report is insufficient to establish causal relationship.⁹ Therefore, appellant has not established an injury in the performance of duty.

⁷ *Ern Reynolds*, 45 ECAB 690 (1994); *Melvina Jackson*, 38 ECAB 443, 449 (1987); *Naomi A. Lilly*, 10 ECAB 560, 573 (1959).

⁸ *George Randolph Taylor*, 6 ECAB 968 (1954).

⁹ *Lucrecia M. Nielson*, 41 ECAB 583, 594 (1991).

The December 1, 2000 decision of the Office of Workers' Compensation Programs is affirmed as modified.

Dated, Washington, DC
September 19, 2001

David S. Gerson
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member