

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DONNA L. MIMS and DEPARTMENT OF THE AIR FORCE,
OPTOMETRY SERVICES, ROBINS AIR FORCE BASE, GA

*Docket No. 01-1835; Submitted on the Record;
Issued August 13, 2002*

DECISION and ORDER

Before ALEC J. KOROMILAS, COLLEEN DUFFY KIKO,
MICHAEL E. GROOM

The issue is whether appellant established that her allergic rhinitis and vocal polyp were causally related to her employment.

On August 2, 2000 appellant, then a 44-year-old supply clerk, filed an occupational disease claim, alleging that her allergic rhinitis and anterior vocal polyp were causally related to her employment.¹ She stated that she had been diagnosed with severe allergies since April 1999 and began to have allergic symptoms when her office moved into a new building. Appellant stopped working on August 2, 2000.

In a disability note dated August 22, 2000, appellant's treating physician, Dr. Frank J. Pischke, a Board-certified otolaryngologist, stated that she did not work "yesterday or today" and should avoid dust and mold.

In a memorandum dated August 31, 2000, the employing establishment stated that appellant worked in building 703 until July 17, 2000, when she filed a claim for an injury allegedly resulting from the spraying of chemicals on the grounds and the employing establishment permanently removed her from the building. The employing establishment stated that on July 31, 2000 appellant reported to a new building, 700A, where she alleged that she had an allergic reaction and management removed her from that building. The employing establishment stated that appellant was offered a new job in building 905 but, after working in that building from August 14 to 18, 2000, appellant alleged that dust and mold in the vents caused another allergic reaction and management permanently removed her from building 905. The employing establishment stated that there were no known contaminants in buildings 703,

¹ Appellant's claim for a work-related respiratory illness was denied by the Office of Workers' Compensation Programs in a decision dated September 19, 2000. She currently filed this claim, No. 06-2017322 and a claim for exposure to fumes on July 17, 2000, No. 06-2014925.

700A or 905. The record contains some health record notes dated July 31 through August 23, 2000 describing appellant's condition and her treatment.

By letter dated October 4, 2000, the Office informed appellant that additional evidence was necessary to establish her claim, including the nature of the substances she was exposed to and a narrative report from her treating physician attributing her condition to that exposure.

By decision dated November 29, 2000, the Office denied appellant's claim, stating that the medical evidence was not sufficient to establish that her allergic condition was caused by the employment factor.

In an undated letter, appellant requested reconsideration of the Office's decision and submitted additional medical evidence and documentation of her working conditions. In an undated report, Dr. Thomas M. Crews, a Board-certified otolaryngologist, stated that appellant was "doing fine" prior to November 1996, when she began working in Building 255 and had an escalating problem of nasal stuffiness, runny nose, itchy watery eyes, facial pain, headaches and hoarseness which led up to a culminating infection of June 12, 1998 and continued thereafter. He noted that appellant underwent two throat surgeries and two sinus surgeries. Dr. Crews stated that appellant's underlying allergic rhinitis "plays a great deal of a role in the manifestations of symptoms" and stated that if she had not had underlying allergic rhinitis and sensitivity to various chemicals and mold, she would not have manifested sinus disease or the allergies. If she had not been exposed to the materials that were deemed noxious as in molds, dust, pollen, chemicals and sewer gases, she also would not have had the problem. He opined that appellant had a temporary aggravation secondary to the exposure of various fumes, chemicals, dust and molds that started in November 1996 and ceased as of August 1999, when appellant was removed from the environment.

In another undated report from Dr. Crews received by the Office on December 20, 2000, he noted that the building where appellant worked, Building 255 "apparently" had problems with chemical and sewage odors and dusts on various surfaces. He performed a physical examination and opined that appellant's allergies and subsequent sinus surgeries were the result of her working in the Building 255 environment and her symptoms and subsequent surgeries were related to that environment.

In a note dated December 13, 2000, Dr. Pischke stated that appellant underwent an allergy work up on February 10, 1999 and was found to be allergic to various inhalants including pollen, dust, mold and tobacco. He stated that it "was common knowledge that allergic patients are very sensitive to chemicals and fumes of any nature" and appellant should avoid exposure to such things and should not work around heavy dust and mold concentrations.

In an undated statement received by the Office on December 18, 2000, appellant explained that when she returned to work on July 31, 2000 in Building 700A she experienced headaches, congestion and laryngitis. Appellant stated that when she reported to Building 905 on August 14, 2000 there was visible mold on the air conditioning vents.

An undated memorandum from the employing establishment stated that Bioenvironmental Engineering made 17 visits to Building 255 to investigate air quality

complaints and test results indicated that the air quality was at acceptable levels. Another undated memorandum stated that an inspector investigated the air quality in Building 255 on October 1, 1998 and found no violations of Occupational Safety and Health (OSHA) standards. An undated memorandum stated that Bioenvironmental and Civil Engineers conducted a site visit of Building 255 on February 3, 1998 and there was a problem of inconsistency of airflow throughout the building. No evidence of mold or mildew was found, but the supply and return air duct vents were covered with a layer of dust and dirt. The memorandum stated that Contract Cleaning Service would clean the supply and return air duct vents on February 20, 1998 and accomplish heavy cleaning on a periodic basis.

In a report dated August 11, 1998, Dr. Rafael J. Aguila, a general practitioner, stated that he first saw appellant on July 25, 1996, when she was diagnosed with acute sinusitis. He stated that she had sinus surgery and was doing well postoperatively until she returned to work and her symptoms recurred. Dr. Aguila opined that her symptoms were the result of Sick Building Syndrome and her complaints, which had been attributed to allergic rhinitis and acute sinusitis “could have been the result of airborne microbial contaminants, which would have been linked to this condition.”

In a report dated April 28, 1999, Dr. Pischke diagnosed polypoid masses of both vocal cords.

By decision dated February 14, 2001, the Office denied modification of the November 29, 2000 decision.

In an undated letter, received by the Office on December 6, 2001, appellant requested reconsideration of the Office’s decision and submitted additional medical evidence. By letter dated January 31, 2001, Dr. Pischke stated that he was retiring and was discontinuing his practice as of February 28, 2001. In a note dated February 27, 2001, Dr. Pischke stated that appellant was allergic to various inhalants including pollens, dust, mold and tobacco and her history revealed that her symptoms were made worse by her contact with dust and mold at her workplace. He stated that “no matter where she was placed she still could not work in her job description.”

In a report dated May 30, 2001, Dr. Aguila opined that appellant’s symptoms began when she was suffering from Sick Building Syndrome as her symptoms would begin on a Monday when she appeared at work, she would do well over the weekend and her symptoms would recur the following Monday when she returned to work. He stated that the note written by Dr. Crews, an “E[ar] N[ose] [and] T[hroat]” specialist, stated that the air quality was checked in appellant’s building revealing problems with chemical and sewage odors and dust on various surfaces. Dr. Aguila stated that after her sinus surgery, appellant appeared “to be doing much better and was subsequently transferred to another building, whereupon her symptoms became exacerbated.” Through the Freedom of Information Act, appellant was able to obtain material safety data on some of the materials and paints that were being used in the building while she was stationed there. She advised the doctor that, at the time she was transferred, they were painting the interior of the building and many of the materials that were utilized, such as polyurethane coating, paint, aerosol lacquer, *etc.*, all have the potential for aggravating respiratory disorders which appellant had at the time. Dr. Agulia believed there is a cause and

effect in the relationship between the symptoms appellant has and the environmental exposure at her workplace.

Appellant submitted several pages of “Material Safety Data Sheets,” which described chemicals or substances consisting of polyurethane coating, paint and aerosol lacquer, their material characteristics and hazardous or unhealthy effects they can have on people.

By decision dated July 2, 2001, the Office denied modification of its prior decision.

The Board finds that appellant failed to establish that she sustained an injury in the performance of duty as alleged.

To establish that an injury was sustained in the performance of duty, appellant must submit the following: (1) medical evidence establishing the presence or existence of the condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the condition; and (3) medical evidence establishing that the employment factors identified by the claimant 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. The medical evidence required to establish causal relationship, generally is rationalized medical evidence. Rationalized medical opinion evidence is medical evidence, which includes a physician’s rationalized opinion on the issue of whether there is a causal relationship between appellant’s diagnosed condition and the implicated employment factors. 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 specific employment factors identified by appellant.²

The mere fact that a disease manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the disease became apparent during a period of employment, nor the belief of appellant that the disease was caused or aggravated by employment conditions, is sufficient to establish causal relation.³

In this case, the only objective evidence of a building containing potential allergens was the memorandum from the Bioenvironmental and Civil Engineers stating that an on site visit of Building 255 on February 3, 1998 showed that there was a problem with consistency of airflow throughout the building and the supply and return air duct vents were covered with a layer of dust and dirt. In the memorandum dated August 31, 2000, the employing establishment stated that there were no known contaminants in buildings 703, 700A or 905, the buildings where appellant worked since July 17, 2000, the date she filed her claim. The Material Safety Data Sheets appellant submitted do not indicate that the particular chemicals and substances they describe were in the buildings where appellant worked. She stated that when she reported to

² See *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

³ *Lucrecia M. Nielsen*, 42 ECAB 583, 593 (1991); *Joseph T. Gulla*, 36 ECAB 516, 519 (1985).

Building 905 on August 14, 2000 there was visible mold on the air conditioning and vents but this was not corroborated by an objective source.

While the medical evidence of record consisting of Drs. Crews, Pischke and Aguila's opinions establish that appellant had allergic rhinitis and polypoid masses on her vocal cords and she was allergic to various inhalants including dust, mold and tobacco, none of their opinions establish a connection between appellant's rhinitis and employment factors in buildings 703, 700A and 905. Dr. Pischke's February 27, 2001 note stated that appellant's symptoms "were made worse by her contact with dust and mold at her workplace" but his opinion is of diminished probative value because of the lack of objective evidence showing that there was dust and mold in Buildings 703, 700A and 905. In his May 30, 2001 report, Dr. Aguila stated that the materials such as polyurethane coating, aerosol lacquer and paints used in the building where appellant worked caused her symptoms but his opinion is also of diminished probative value due to the lack of evidence corroborating that these materials were in the relevant buildings. In one of his reports, Dr. Crews stated that Building 255 had problems with chemical and sewage odors and dusts on various surfaces and opined that appellant's allergies and subsequent sinus surgeries resulted from the Building 255 environment but it is not clear how her employment in Building 255 relates to her current claim. Dr. Crews stated that appellant's allergic condition was temporarily aggravated in Building 255 but ceased in August 1999 when appellant was removed from the environment. The evidence of record does not show when appellant worked in Building 255 and provides no rationalized medical opinion explaining how her employment in that building contributed to her current condition.⁴ Appellant was not working in Building 255 at the time she filed this claim. The evidence of record does not establish that employment factors in Buildings 703, 700A and 905 contributed to or caused her allergic rhinitis and vocal polyp. Appellant has, therefore, failed to establish her claim.

⁴ See *Bonnie Goodman*, 50 ECAB 139, 143 (1998); *Dennis M. Mascarenas*, 49 ECAB 215, 217-18 (1997).

The July 2 and February 14, 2001 and November 29, 2000 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC
August 13, 2002

Alec J. Koromilas
Member

Colleen Duffy Kiko
Member

Michael E. Groom
Alternate Member