

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WAYNE R. DONAHUE and DEPARTMENT OF THE NAVY,
NAVAL SUBMARINE BASE - NEW LONDON, Groton, CT

*Docket No. 01-1588; Submitted on the Record;
Issued February 27, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,
A. PETER KANJORSKI

The issue is whether appellant sustained an injury in the performance of duty on March 13, 2000.

On June 29, 2000 appellant, a 43-year-old equipment operator, filed a notice of traumatic injury and claim for compensation (Form CA-1), alleging that he experienced chest pains, left arm pain, a headache and dizziness after lifting a 75- to a 100-pound storm drain cover on March 13, 2000. He ceased work that same day and returned to work on March 15, 2000. David J. Jorczak, a coworker, witnessed the March 13, 2000 incident. Mr. Jorczak stated that he and appellant were cleaning out a storm drain and as they lifted the drain cover and set it down, appellant "made a face like he was in pain and held [the] left side of his chest."

Appellant sought emergency medical treatment and was admitted to the hospital on March 13, 2000 to rule out myocardial infarction. The following day appellant left the hospital against medical advice. The discharge summary, prepared by Dr. Wajih Zaheer, included diagnoses of chest pain, history of neck pain and history of cardiomyopathy, presumed to be alcohol related.

After further development of the record, the Office of Workers' Compensation Programs denied appellant's claim by decision dated December 4, 2000. The Office explained that the medical evidence of record failed to demonstrate a causal relationship between appellant's claimed condition and the March 13, 2000 employment incident.

On January 23, 2001 appellant requested reconsideration and submitted a January 15, 2001 report from Dr. Marshall S. Katz, a cardiologist and Board-certified internist, who stated that appellant had known dilated cardiomyopathy, which was probably nonischemic. With respect to the March 13, 2000 employment incident and complaints of chest discomfort, Dr. Katz noted that myocardial infarction had been ruled out, but appellant continued to have occasional atypical chest heaviness and dizziness most consistent with vertigo. He further stated that,

although appellant's chest discomfort did not appear to be related to work, he could not exclude that appellant experienced musculoskeletal discomfort from lifting heavy items.

The Office reviewed appellant's claim on the merits and in a decision dated April 30, 2001 denied modification of the prior decision.

The Board finds that appellant failed to establish that he sustained an injury in the performance of duty on March 13, 2000.

A claimant seeking compensation under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his claim by the weight of the reliable, probative and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any disability or specific condition for which compensation is being claimed is causally related to the employment injury.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 his 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 claimant's specific employment factors.⁶

The fact that the etiology of a disease or condition is unknown or obscure neither relieves appellant of the burden of establishing a causal relationship by the weight of the medical evidence nor does it shift the burden of proof to the Office to disprove an employment relationship.⁷

Dr. Katz's January 15, 2001 report is the only medical evidence that arguably supports a finding of causal relationship between appellant's claimed condition and the March 13, 2000 employment incident. This report, however, is equivocal. Dr. Katz stated that, although

¹ 5 U.S.C. §§ 8101-8193.

² See *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996); *Melinda C. Epperly*, 45 ECAB 196 (1993); *Elaine Pendleton*, 40 ECAB 1143 (1989).

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

⁴ *Id.*

⁵ *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁶ *Id.*

⁷ *Judith J. Montage*, 48 ECAB 292, 294-95 (1997).

appellant's chest discomfort did not appear to be work related, he could not exclude that appellant experienced musculoskeletal discomfort from lifting heavy items. He further stated that "[o]ccasionally chest discomfort can be seen in patients with dilated cardiomyopathy and *perhaps* [appellant] had an exacerbation from work." Dr. Katz stated that "[i]t certainly is *possible* that [appellant] develop[ed] a costochondritis or musculoskeletal strain at work that day after lifting heavy items, albeit not necessarily related to his cardiomyopathy."

As previously noted, in order to be considered rationalized, a physician's 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 claimant's specific employment factors.⁸ In this case, Dr. Katz merely speculated that appellant's chest discomfort was employment related. His remarks were prefaced by the statement that appellant's condition did not appear to be employment related. Dr. Katz then offered the opinion that "perhaps" appellant's preexisting cardiomyopathy was exacerbated by work or it was "possible" he sustained a rib cartilage injury or musculoskeletal strain from heavy lifting. What is clear from this report is that Dr. Katz is uncertain as to the employment-related nature of appellant's March 13, 2000 chest discomfort. Furthermore, while he speculated that appellant's condition was employment related, Dr. Katz offered no rationale for his exacerbation theory and he cited no evidence that appellant either developed costochondritis or sustained a musculoskeletal strain as a result of his March 13, 2000 employment incident. As such, the record on appeal is insufficient to establish "fact of injury."⁹ Accordingly, appellant has failed to demonstrate that he sustained an injury in the performance of duty on March 13, 2000.

⁸ *Victor J. Woodhams*, *supra* note 5.

⁹ In order to determine whether an employee sustained a traumatic 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 that must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident that is alleged to have occurred. *Elaine Pendleton*, 40 ECAB 1143 (1989). The second component is whether the employment incident caused a personal injury. *John J. Carlone*, 41 ECAB 354 (1989).

The April 30, 2001 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
February 27, 2002

Michael J. Walsh
Chairman

Alec J. Koromilas
Member

A. Peter Kanjorski
Alternate Member