

experienced a burning nose, coughing, headache and wheezing while at work. She noted that her symptoms would subside after exiting the building.

In a report dated November 13, 2001, Dr. Henry T. Ling, appellant's attending Board-certified internist, stated that she had asthmatic bronchitis and shortness of breath and would be off work for at least 7 to 10 days. In a report dated November 21, 2001, Dr. Ling stated that appellant was recovering from severe asthmatic bronchitis and restricted her from working in a dusty environment. On January 30, 2002 he stated that appellant had two bronchospasms in her workplace caused by chemical stimulus and that she was "not allowed to return to that building under any terms." On March 15, 2002 Dr. Ling stated that there was no way to know what chemical was causing appellant's condition.

On March 11, 2002 appellant stated that she was exposed to excessive amounts of dust due to an extensive cleanup caused by an anthrax scare. Appellant noted a heavy concentration of a cleaning solution that had an offensive odor. Appellant noted that she was not exposed to other irritants in her home and first noticed her condition while at work. Prescription medication did not help as she continued to feel a burning sensation in her nose with persistent coughing and wheezing.

By decision dated June 18, 2002, the Office denied appellant's claim on the grounds that she failed to submit medical evidence to establish that her workplace exposure caused her condition.

On July 15, 2002 appellant requested an oral hearing. A hearing was held on January 23, 2003 and appellant testified about her respiratory illness.

In a report dated July 26, 2002, Dr. Ling stated that appellant had a severe bronchial cough since late September 2001 which persisted for seven weeks, at which time she was placed on an inhaler. After two weeks her condition resolved and she returned to work. Two days later her condition returned and she had a decreased airway flow on inspiration and wheezing. Since then appellant had not returned to work. He added that "There is no possible way to find out which chemical is involved without putting her life into significant jeopardy," indicating that the substance was unique to the employing establishment because her exposure to the normal environment has not caused her any breathing problems.

In reports dated September 26 and November 1, 2002, Dr. Ling stated that appellant had acute asthma associated with her work environment and that she was not allowed to return to her worksite.

In a report dated March 12, 2003, the employing establishment reported that an independent environmental testing procedure revealed no anthrax or any other chemical samples from appellant's work area on November 8 and 9, 2001.

In a decision dated April 4, 2003, an Office hearing representative affirmed the June 18, 2002 decision denying appellant's claim for compensation. The hearing representative found that, absent an identification of the substance to which appellant was exposed, her claim for respiratory disease was not established. He noted that appellant's workplace was subject to an anthrax scare in 2001 but that no anthrax or other chemicals were found.

On June 10, 2003 appellant, through counsel, requested reconsideration. In a report dated May 13, 2003, Dr. Ling stated that appellant had a history of reactive airway disease, which could be due to a dusty environment or cleaning solvent, possibly chlorine dioxide. He explained that when exposed, appellant experienced bronchospasm and required either therapy or hospitalization. Dr. Ling stated that she should be restricted from working in areas where there was dust or exposure to chlorine dioxide.

By decision dated August 27, 2003, the Office denied modification of the April 4, 2003 decision.

LEGAL PRECEDENT

A claimant seeking benefits 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 any specific condition or disability for work, for which he claims compensation is causally related to the employment injury.²

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 diagnosed condition is causally related to the employment factors identified by the claimant.³

An award of compensation may not be based on surmise, conjecture or speculation. The fact that appellant's condition became apparent during a period of employment is insufficient, of itself, to establish causal relationship.⁴ Appellant's belief that the condition was caused or aggravated by her employment is similarly insufficient to establish causal relationship.⁵ Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁶

¹ 5 U.S.C. §§ 8101-8193.

² *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *Robert G. Morris*, 48 ECAB 238, 239 (1996).

⁵ *Id.*

⁶ *Id.* 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. *Victor J. Woodhams*, *supra* note 3. 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. *Id.*

ANALYSIS

Appellant has not submitted sufficient medical evidence to support that her diagnosed condition was caused by exposure to substances in her employment. Dr. Ling diagnosed asthmatic bronchitis and shortness of breath, noting only that appellant worked in a dusty environment. His January 30, 2002 report attributed her bronchospasms to workplace chemicals, but he did not identify the chemicals to which appellant was exposed or explain how they caused her condition. These reports lacked specificity regarding the cause of appellant's condition.⁷ On March 15 and July 26, 2002 he noted that there was no way to know what chemical was causing appellant's condition. On September 26 and November 1, 2002 Dr. Ling rested his conclusion that appellant's acute asthma was causally related to her work environment. However, his reports lack a rationalized medical opinion explaining the basis for attributing her condition to her employment. In a May 13, 2003 report, Dr. Ling stated that appellant's history of reactive airways disease could be due to a dusty environment or a cleaning solvent, possibly chlorine dioxide. Medical opinions that are speculative or equivocal in character are of diminished probative value.⁸ The fact that the etiology of a disease or condition is unknown or obscure does not relieve 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.⁹

Dr. Ling's reports fail to provide a well-reasoned discussion explaining how appellant's respiratory condition was causally related to her employment. Dr. Ling did not identify with any specificity which chemical agents to which appellant was exposed and did not identify the degree or nature of any exposure. He did not provide sufficient medical rationale to explain how any of the alleged agents caused the respiratory conditions. Accordingly, Dr. Ling's various reports are insufficient to meet appellant's burden of proof.

CONCLUSION

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

⁷ *William S. Wright*, 45 ECAB 498 (1994).

⁸ *Ricky S. Storms*, 52 ECAB 349 (2001).

⁹ *Judith J. Montage*, 48 ECAB 292, 294-95 (1997).

ORDER

IT IS HEREBY ORDERED THAT the August 27, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 19, 2004
Washington, DC

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member