

tired and that on March 26, 2002 after an hour at work, her eyes became itchy and discharged a yellow substance. She saw her personal physician who gave her a prescription for antibiotics. Appellant indicated that she saw an eye specialist on March 28, 2002 because she was having greater pain in the eyes. The physician diagnosed conjunctivitis in both eyes, aggravated by an allergic reaction to the antibiotics.

Appellant submitted an April 3, 2002 report from Dr. Amos J. Willis, a Board-certified ophthalmologist, who stated that appellant had severe conjunctivitis and had been treated with Ocuflax drops. He indicated that appellant's eyes were significantly red and watering and her eyelids were swollen. Dr. Willis related that appellant complained that the conditions in her office had been very bad due to a leak that caused the ceiling to fall. Appellant reported that mold, dust and mildew in her office contributed to the swelling of her eyes. Dr. Willis noted that he informed her that there was a good chance that her conjunctivitis was caused by the conditions described that existed in her office.

In a July 23, 2002 letter, the Office informed appellant that the evidence she submitted in support of her claim was insufficient to establish that she actually experienced the incident or employment factor alleged to have caused the injury. The Office further stated that the evidence was insufficient to support that she was injured in the performance of duty. The Office gave appellant 30 days to submitted additional evidence in support of her claim.

In an August 7, 2002 CA-20 form, received by the Office on August 20, 2002, Dr. Manisha J. Jariwala, a Board-certified internist, diagnosed conjunctivitis. However, she checked the "no" box to the question of whether appellant's condition was causally related to her employment. In a separate August 7, 2002 CA-20 form report, Dr. Willis stated that appellant had a yellow discharge and burning and itching in the right eye. He diagnosed allergic medicamentosa and conjunctivitis bothers both eyes. Dr. Willis checked the "yes" box to the question of whether the diagnosed condition was causally related to appellant's employment.

Appellant submitted additional evidence which was received by the Office on August 23, 2002. The evidence included an April 19, 2002 report from Dr. Willis, who stated that appellant's symptoms should clear in 7 to 10 days from the date of his examination. He noted that her vision could be blurred due to inflammation, discharge, and medication. Dr. Willis reported that appellant was unable to see clearly and comfortably that this would affect job performance.

In an August 29, 2002 decision, the Office found that appellant had established that she actually experienced the claimed employment factor. The Office, however, found that the evidence did not establish that a condition had been diagnosed in connection with the employment factor. The Office concluded that an injury within the meaning of the Federal Employees' Compensation Act was not demonstrated.

In a September 23, 2002 letter, appellant requested a hearing before an Office hearing representative. She submitted a May 30, 2002 air quality report which reviewed the air quality of the employing establishment after the water leak. The report indicated that the air sampling was conducted on May 13, 2002. The air samples collected showed fungi and bacteria in the air.

In a September 20, 2002 letter, Michael B. Hydorn, appellant's supervisor, indicated that on March 3, 2002 the employing establishment was flooded due to a blocked rain drain. He noted that the leak resulted in sodden carpets, ceiling tiles and drywall. Equipment such as copiers and computers were laden with puddles of unclean water. Mr. Hydorn stated that appellant's office was among the casualties of sodden rooms. He reported that the landlord used large fans in her office and throughout the suite to expedite drying. The drying was repeated a week later because everything had not dried. Several employees noted some eye and throat irritation. Mr. Hydorn stated that appellant had a more severe reaction because her eyes swelled and reddened very significantly. He commented that the additional and necessary mixing of the air to dry her office exacerbated her symptoms. Mr. Hydorn indicated that appellant was fully recovered, but was unable to work for several days.

Appellant also submitted a September 23, 2002 report from Dr. Willis, who stated that appellant gave a history of water damage and conditions that had persisted in her office for several weeks prior to her March 28, 2002 examination. He reported that an air quality report conducted in May 2002 apparently showed the presence of fungi and bacteria in her office. Dr. Willis concluded that appellant's diagnosis of allergic conjunctivitis was most probably a reaction caused by the water damage and the subsequent development of fungi and bacteria in her office. He related that she reported that the drying machines used in her office may have promoted the circulation of mildew, bacteria, dust and fungi in a poorly ventilated area. Dr. Willis indicated that appellant was advised not to return to work for another week due to the severity of her symptoms. He stated that she was unable to work from March 25 to April 5, 2002.

In a July 15, 2003 decision, the Office hearing representative found that the case was not in posture for decision, as the reports of Dr. Willis provided a reasonable, albeit speculative, opinion that there existed a causal relationship between the conditions of the employing establishment and appellant's eye problem. He changed the case from a traumatic injury case to an occupational injury case because it concerned work exposure occurring over more than one day or work shift. He, therefore, remanded the case for referral of appellant to a Board-certified ophthalmologist for a second opinion.

The Office referred appellant, together with a statement of accepted facts and the case record, to Dr. Howard Bernstein for an examination and second opinion on the cause of her eye condition. In an October 24, 2003 report, he reported that appellant currently did not demonstrate any ocular pathology or residual side effects from the episode of conjunctivitis. Dr. Bernstein indicated that her eyes were normal and did not require further treatment. He stated that appellant's symptoms of an acute onset of the conjunctivitis, sore throat, the severe intensity of the ocular reaction shown by eyelid swelling, corneal staining, a two-week duration of the condition despite treatment with antibiotics and steroids and absence of recurrence despite working in the same office strongly suggested that the conjunctivitis was caused by a viral infection, most probably an adenovirus. Dr. Bernstein commented that a viral infection was the most common cause of conjunctivitis and was often referred to as "pink eye." He stated that this condition commonly had corneal epithelial involvement as the staining of the eye indicated in the case. Dr. Bernstein remarked that there may have been a bacterial component as suggested by the yellow discharge from the eyes, but such a component would have been adequately treated by Ocuflux for three days. He noted that a small amount of yellow discharge may also be seen in

many nonbacterial types of conjunctivitis due to conjunctival irritation. Dr. Bernstein stated that adenoviral conjunctivitis usually had an incubation period of three to five days and that it was likely that appellant contracted the infection when she was out of her office in the week before rather than in the 24 hours after she returned to work.

Dr. Bernstein stated that he did not think appellant had an allergic reaction. He commented that she did not have a reaction to the medication she was taking for three days which was too short a period for a conjunctivitis medicamentosa. Dr. Bernstein also indicated that appellant most likely did not have an allergic or toxic reaction to molds, dust, bacteria or mildew in the atmosphere of her working surroundings. He stated that these contaminants would not produce such a conjunctival reaction, such as an acute onset after one hour of exposure. Dr. Bernstein added that a more rapid resolution would be expected once appellant left the area of exposure and after beginning steroid drops on the third day after onset. He pointed out that allergic reactions were usually very responsive to the removal of the inciting allergens and steroid drops. Dr. Bernstein commented that a dusty atmosphere, especially created by large cleaning fans might have produced symptoms. He indicated that statements from Mr. Hydron suggested that there was a higher level of dust and possibly other particulates in the employing establishment. He added, however, that the dust would usually cause a mild hyperemia of the conjunctiva and would be a chronic condition. Mr. Hydron also noted that the study of air contamination on May 13, 2002 showed the indoor count of fungi was lower than the outdoor count which indicated that there was not excessive fungal contamination in the air. He indicated that the bacterial air sampling indicated that the indoor counts were slightly higher than the outdoor counts but were low for occupied areas and do not support that there was inadequate ventilation.

In a November 5, 2003 decision, the Office denied appellant's claim on the grounds that there was no medical evidence that provided a diagnosis which could be connected to the events described in the claim. It stated that exposure alone was not sufficient to establish a work-related medical condition.

In a November 24, 2003 letter, appellant requested reconsideration. She asked how it was possible for the Office to make a final decision based on Dr. Bernstein's report when he examined her eight months after the fact. Appellant reiterated her belief that her eye condition became infected from the dust, bacteria and mold that accumulated in her office. She indicated that on March 26, 2002, she had to change the cartridge on her printer. Appellant noted that the cartridges were on top of a seven-foot file cabinet at the point where the water damage began. She tried to reach for a cartridge but while doing so, a considerable amount of dust got into her eye. When appellant opened the box containing the cartridge, dust particles and black cartridge ink particles flew into the air and got in her face and eyes. She stated that the fans used to dry her office were of no help.

In a February 23, 2004 merit decision, the Office denied appellant's request for modification of the November 5, 2003 decision.

LEGAL PRECEDENT

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed;¹ (2) a factual statement identifying the employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;² 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.³ The medical evidence required to establish causal relationship, generally, is rationalized medical opinion 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 the claimant'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,⁴ must be one of reasonable medical certainty⁵ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁶

ANALYSIS

The Office accepted that appellant was exposed to dust, bacteria, mold and mildew on March 26, 2002. However, it concluded that the medical evidence did not show a causal relationship between that exposure and her conjunctivitis. Dr. Willis, in his April 3, 2002 report, indicated that there was a good chance that appellant's conjunctivitis was caused by exposure to air contaminants at work. This report was speculative and, therefore, had limited probative value. In an August 7, 2002 form report, Dr. Jariwala marked a "no" box on a form report to indicate she found no causal connection between appellant's injury and her conjunctivitis. In his August 20, 2003 form report, Dr. Willis marked a box marked "yes" to show that there was a connection between appellant's condition and her employment. The checking of a "yes" box in a form report, without additional explanation or rationale is insufficient to establish causal relationship.⁷ In his September 23, 2002 report, Dr. Willis stated that appellant's allergic conjunctivitis was most probably a reaction caused by the water damage and subsequent development of bacteria and fungi in her office. However, he made an assertion of a causal relationship between appellant's conjunctivitis and the air quality at the employing establishment

¹ See *Ronald K. White*, 37 ECAB 176, 178 (1985).

² *Jerry D. Osterman*, 46 ECAB 500, 507 (1995); *Walter D. Morehead*, 31 ECAB 188, 194 (1979).

³ *George V. Lambert*, 44 ECAB 870, 876-77 (1993); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁴ *Durwood H. Nolin*, 46 ECAB 818, 821-22 (1995); *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁵ *Dennis M. Mascarenas*, 49 ECAB 215, 217-18 (1997); *Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁶ *Arturo A. Adams*, 49 ECAB 421, 425-26 (1998).

⁷ *Linda Thompson*, 51 ECAB 694, 696 (2000)

but did not explain how the air contaminants would have caused appellant's condition. Since he did not give any explanation to support his statement that the conditions at the employing establishment caused her eye condition, this report also has little probative value.

Dr. Bernstein, in his October 24, 2002 report, stated that appellant's symptoms, including acute onset, severe swelling of the eyelids, corneal staining and no response to treatment with antibiotics or steroids, strongly suggested that she had a viral infection that caused her conjunctivitis. He noted that viral infections were the most common cause of conjunctivitis. Dr. Bernstein stated that the class of viruses most commonly involved in conjunctivitis had an incubation period of three to five days which would have indicated that appellant's exposure to the virus occurred before she returned to her office on March 26, 2002. He commented that her conjunctivitis was not an allergic reaction. Dr. Bernstein pointed out that appellant only used the Ocuflux for three days, which was not long enough for a reaction to the Ocuflux. He discounted an allergic reaction to dust, mold, bacteria and mildew because these air contaminants did not cause such a severe reaction and would have had a rapid resolution when appellant left the employing establishment. Dr. Bernstein stated that exposure to dust in her office would more likely cause a mild, chronic condition. The Board finds that appellant has not met her burden of proof to establish that her conjunctivitis was causally related to her employment.

CONCLUSION

Appellant has not met her burden of proof in establishing that her conjunctivitis was causally related to exposure to dust, bacteria, mold and mildew at work.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated February 23, 2004 and November 5, 2003 be affirmed.

Issued: November 4, 2004
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member