



establishment through the ingestion of water or water vapor particles contaminated with Legionella, the bacteria that causes Legionnaire's disease. The employee's death certificate listed his cause of death as Legionella pneumophila and indicated that he suffered from his condition for approximately one month prior to his death.

Appellant completed a claim for compensation by widow on January 30, 2003 and indicated that the employee, a 53-year-old meat cutter, died due to Legionella pneumophila. Dr. Mary Louise Zwiesler, a Board-certified family practitioner, listed the date of death as June 6, 2001, but did not indicate a cause of death prior to signing on March 11, 2003.

The Office requested additional factual and medical evidence in support of appellant's claim by letter dated July 10, 2003. The Office allowed appellant 30 days for a response. The Office also requested additional factual evidence from the employing establishment. The employing establishment responded on August 5, 2003 and stated that environmental studies did not find any harmful substances.

By decision dated September 3, 2003, the Office denied appellant's claim finding that the evidence did not establish that the employee was exposed to Legionella during the course of his employment.

On September 18, 2003 appellant responded that the employee felt ill on May 4, 2001. She noted that several of the employee's coworkers were also ill with respiratory symptoms at that time. The employee sought medical treatment due to a fever and was eventually hospitalized. Appellant alleged that the employing establishment underwent a "massive clean up project" prior to the health inspection.

Appellant, through her attorney, requested an oral hearing on September 22, 2003. Counsel appeared at the oral hearing on July 26, 2004 and requested an additional 30 days to submit medical evidence.

Dr. Alan E. Kravitz, a Board-certified internist, completed a report on August 2, 2004 reviewing the employee's employment history and medical treatment. He noted that a cooling tower came into service on April 6, 2001, that the employee's symptoms began on April 29, 2001 and that he was admitted to the hospital on May 13, 2001. Dr. Kravitz concluded that the employee's primary and secondary residences were not the cause of his Legionella and that there was no other mechanism from which he could have been exposed to Legionella apart from droplet formations from water cooling towers. He stated, "Legionella pneumophila is transmitted exclusively by water droplets which are usually made by a water cooling air conditioning tower." Dr. Kravitz noted that the employee died from Legionnaire's disease and stated that the only reasonable exposure period was at the employing establishment.

Appellant also submitted a portion of a medical textbook addressing Legionnaire's disease treatment, diagnosis and Legionellosis.

By decision dated November 23, 2004, the hearing representative affirmed the September 3, 2003 decision, finding that there was insufficient medical evidence to establish a causal relationship between the employee's death or any work-related exposure.

## LEGAL PRECEDENT

A claimant has the burden of proving by the weight of the reliable, probative and substantial evidence that the employee's death was causally related to his employment. This burden includes the necessity of furnishing medical opinion evidence of a cause and effect relationship based on a complete factual and medical background. The opinion of the physician must be of reasonably medical certainty and must be supported by medical rationale.<sup>1</sup>

Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents are sufficient to establish causal relationship.<sup>2</sup>

The Board has held that newspaper clippings, medical texts and excerpts from publications are of no evidentiary value in establishing the causal relationship between a claimed condition and federal employment as such materials are of general application and are not determinative of whether a specific condition claimed is related to particular employment factors of incidents.<sup>3</sup>

## ANALYSIS

Appellant attributed the employee's death to exposure to *Legionella pneumophila* in the performance of duty. Appellant alleged that the employee was exposed to contaminated water droplets. The employing establishment denied that any contamination or harmful bacteria were present.

The August 2, 2004 report from Dr. Kravitz noted that a cooling tower came into service on April 6, 2001, that the employee's symptoms began on April 29, 2001 and that he was admitted to the hospital on May 13, 2001. Dr. Kravitz concluded that the employee's primary and secondary residences were not the cause of his *Legionella* and that there was no other mechanism by which he could have been exposed to *Legionella* apart from droplet formation from water cooling towers. He stated, "*Legionella pneumophila* is transmitted exclusively by water droplets which are usually made by a water cooling air conditioning tower." Dr. Kravitz noted that the employee died from Legionnaire's disease and stated that the only reasonable exposure period was at the employing establishment.

The Board finds that appellant has not submitted the sufficient medical evidence to establish her claim. While Dr. Kravitz opined that the employee's only reasonable exposure to *Legionella pneumophila* was at the employing establishment, it denied any bacterial contamination. As noted above, a mere temporal connection between the development of the disease and a period of employment is not sufficient to establish causal relationship. The evidence of record does not reveal the basis for Dr. Kravitz's time line and does not support his

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<sup>1</sup> *Jacqueline Brasch ( Ronald Brasch)*, 52 ECAB 252 (2001).

<sup>2</sup> *Patricia J. Glenn*, 53 ECAB 159, 160 (2001).

<sup>3</sup> *Gloria J. McPherson*, 51 ECAB 441, 448 (2000).

opinion regarding the conditions at the employing establishment. For these reasons, this report does not appear to be based on an accurate history of exposure and is not sufficient to meet appellant's burden of proof.

The Board notes that the excerpts from the medical text are not pertinent to the case at hand and therefore lack the probative value necessary to support appellant's claim.<sup>4</sup>

**CONCLUSION**

The Board finds that the medical evidence is not sufficiently detailed and rationalized to establish a causal relationship between the employee's diagnosed Legionnaire's disease and his federal employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the November 23, 2004 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 18, 2005  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>4</sup> *McPherson, supra* note 3.