



also submitted a supporting statement in connection with his claim wherein he described dust and mice droppings to be present “everywhere” at the worksite.

Appellant submitted medical documents in support of his claim. In a March 18, 2005 pulmonary consultation report, Dr. Timothy Bayly, Board-certified in internal medicine, discussed appellant’s work history stating that “there is nothing obvious that is an offending agent.” In the report, Dr. Bayly diagnosed chronic cough and stated that the etiology was “to be determined.” In a March 23, 2005 unsigned computerized tomography (CT) scan report, Dr. Daniel Overdeck, Board-certified in diagnostic radiology, opined that appellant had a negative CT of the chest. In a December 7, 2005 letter, Dr. Bayly, opined that appellant’s shortness of breath was due to offending agents in the building which may be dust, animal dander, oviduct proteins and fungal elements, but not limited to just those listed.

In an April 6, 2005 email from Z.G. “Doc” Kosinski, Jr., of the employing establishment, to James Geddes, Mr. Kosinski stated that there was no obvious identifiable link between appellant’s alleged condition and his working space. Mr. Kosinski also stated that there were no other complaints from individuals about the building making them sick.

In an April 14, 2006 letter, the Office requested additional information from appellant’s employer.

In an April 18, 2006 letter, the Office requested additional factual information from appellant. He did not respond.

In a May 12, 2006 letter, the employing establishment responded to the Office’s letter and controverted appellant’s claim.

By decision dated September 5, 2006, the Office denied appellant’s claim. It found that the evidence was insufficient to establish that the events occurred as alleged. The Office also found that there was no medical evidence that provided a diagnosis related to appellant’s federal employment.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees’ Compensation Act<sup>1</sup> has the burden of establishing the essential elements of his or her claim including the fact that the individual is an employee of the United States within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.<sup>2</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>3</sup>

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>3</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

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; (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 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 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, 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 the claimant.<sup>4</sup>

### ANALYSIS

Appellant alleged that his medical condition was causally related to factors of his federal employment specifically his work environment. The Board finds that he has submitted insufficient medical evidence to establish that his alleged sick building syndromes were caused or aggravated by his federal employment.

The Board notes initially that the employer has disputed appellant's allegations regarding a dirty work site and sick building syndrome. Appellant's allegations in and of themselves are general in nature and are not sufficient to establish a *prima facie* claim. Furthermore, the medical evidence submitted is insufficient to establish that appellant has sustained an injury.

The medical evidence of record submitted by appellant includes a December 7, 2005 letter from Dr. Bayly who opined that appellant's shortness of breath was due to "maybe" a list of offending agents but did not specifically identify which ones. Dr. Bayly's opinion is speculative as he does not identify a definite cause of appellant's condition. The Board has held that medical opinions that are speculative or equivocal in character are of diminished probative value.<sup>5</sup> Additionally, Dr. Bayly's opinion is of diminished probative value because he did not provide any medical rationale to explain how or why exposure to specific substances at work caused or aggravated appellant's claimed condition.

In a March 18, 2005 report, Dr. Bayly diagnosed chronic cough but stated that the cause of the condition was "to be determined." Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>6</sup> Appellant's burden of proof includes the submission of rationalized

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<sup>4</sup> *Id.*

<sup>5</sup> *Kathy A. Kelley*, 55 ECAB 206 (2004).

<sup>6</sup> *Michael E. Smith*, 50 ECAB 313 (1999).

medical evidence addressing causal relationship. To establish causal relationship, he must submit a physician's report, in which the physician reviews the employment factors identified by appellant as causing his condition and taking these factors into consideration as well as findings upon examination, state whether the employment injury caused or aggravated the diagnosed conditions and present medical rationale in support of his or her opinion.<sup>7</sup> There is no medical rationale in Dr. Bayly's report.

Appellant argued in his supporting statement that he had been ill since he started working in his current building due to the building. The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.<sup>8</sup> Neither the fact that the condition became apparent during a period of employment, nor the belief that the condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>9</sup>

Appellant failed to submit medical evidence to establish causal relationship and, therefore, has failed to discharge his burden of proof to establish that he sustained a condition due to factors of his federal employment.

### **CONCLUSION**

The Board finds that appellant has not met his burden of proof in establishing that he sustained an injury in the performance of duty.

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<sup>7</sup> *Calvin E. King*, 51 ECAB 394 (2000).

<sup>8</sup> *Arthur P. Vliet*, 31 ECAB 366 (1979).

<sup>9</sup> *John F. Glynn*, 53 ECAB 562 (2002).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated September 5, 2006 is affirmed.

Issued: April 18, 2007  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board