

By letter dated August 30, 2006, the Office requested factual information from appellant and the employing establishment. The Office subsequently received work orders dating from October 21, 2002 to August 16, 2006, pertaining to leaks, stained ceiling tiles and dripping water in several rooms, including rooms 506 and 507 of the employing establishment.

In an August 17, 2006 emergency room note, Dr. Roger W. Kylberg, Board-certified in family medicine, indicated that appellant had nasal congestion and severe headaches for the prior three weeks. He noted that appellant indicated there were water leaks in the room above at work and there was mildew and mold. Dr. Kylberg diagnosed sinusitis. The Office also received discharge instructions dated August 17, 2006 from a nurse. Appellant also submitted copies of prescriptions dated August 17, 2006 from a Dr. Van S. Mask.¹ She also submitted an article on indoor air and mold and microbiology laboratory reports.

In a September 15, 2006 report, Dr. Kylberg noted that appellant needed to be “off work until September 25[, 2006] because of chronic nasal drainage, cough and headache from continuous work exposure to respiratory irritants.”

In a September 18, 2006 statement, appellant alleged that she was exposed to water from leaks in the rooms that she worked in since 2002 and that there was an excess of dust, odors, moisture and fumes. She described a leak that occurred on August 16, 2006 in both rooms 506 and 507 and alleged that on August 17, 2006 she had to go to the emergency room due to respiratory symptoms which included headaches, a sore throat and sinus pressure.

In an e-mail dated September 6, 2006, the employing establishment confirmed that appellant worked in room 507, which was the area where the leak occurred. The employing establishment noted that appellant also worked in room 506 which was found to have mold and a leak. The employing establishment indicated that appellant moved to another office while the leak was repaired and the tiles were replaced and that appellant was in her office for “less time now.”

By decision dated October 2, 2006, the Office denied appellant’s claim for compensation as the medical evidence failed to demonstrate that her sinusitis condition was causally related to the established work-related events.

On October 10, 2006 appellant requested reconsideration and submitted additional evidence. She alleged that the mold *Alternaria* was found in the room that she worked in and was found in her allergy skin test. Appellant stated that she was highly allergic to the mold. She alleged that she had been working in the area, exposed to the mold since 2002. Appellant submitted an article on *Alternaria* and the results from an allergy skin test.

The Office received additional evidence which was comprised of work orders, some of which were previously submitted, pertaining to the leaks and mold in rooms 506 and 507, a copy of her September 18, 2006 statement, a copy of Dr. Kylberg’s September 15, 2006 report, copies of laboratory reports and her emergency room records from August 17, 2006 and nurses notes. In an August 22, 2005 x-ray of the chest, Dr. Karen J. Stewart, a Board-certified diagnostic

¹ This “physician’s credentials” cannot be determined.

radiologist, noted that there was a question with regard to whether appellant had emphysema. She advised that no pulmonary infiltrates were seen and that appellant's cardiovascular silhouette was normal. Dr. Stewart advised that appellant had calcified granulomas, which were consistent with "previous glaucomatous disease."

The Office received treatment notes from Dr. Kylberg dated August 30 to September 12, 2006. On August 30, 2006 Dr. Kylberg indicated that appellant related that she felt like she was exposed to mold since 2002. Appellant also related that there was a water cistern right above her office which was full of water for the prior four years and was dripping from the vent in her office and splattering, exposing her to mold. Dr. Kylberg diagnosed "chronic sinusitis with possible mild exposure, possible standing water exposure," and indicated, "consider Legionella." He added work exposure to mold and recommended avoiding exposure to regions that would cause mold exposure. On September 12, 2006 Dr. Kylberg opined that "[e]ven if she does not have a fungal infection, if she is allergic to aspergillus, being in this work situation will make her chronically ill. She is to hold off on antibiotic at this time because if we are dealing with a fungal infection, antibiotics will not help and will possibly even worsen the situation."

In a September 20, 2006 report, Dr. William F. Long, Board-certified in obstetrics and gynecology, diagnosed allergic rhinitis and allergic conjunctivitis. He noted that appellant was advised to stay in an area that did not have mold infestation and to stay away from strong odors, strong smells and chemicals.

By decision dated December 27, 2006, the Office denied modification of the October 2, 2006 decision.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act² 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.³ 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.⁴

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

² 5 U.S.C. §§ 8101-8193.

³ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

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.⁵

ANALYSIS

The Board finds that appellant has failed to meet her burden of proof in establishing that she developed an occupational disease in the performance of duty. The Office found that appellant was exposed to mold and leaks at the employing establishment. However, appellant submitted insufficient medical evidence to establish that her sore throat, sinus and respiratory conditions were caused or aggravated by these exposures in her employment.

Appellant submitted several reports from Dr. Kylberg. In an August 17, 2006 emergency room notes, Dr. Kylberg diagnosed sinusitis. On September 15, 2006 he advised that appellant needed to be "off work until September 25[, 2006] because of chronic nasal drainage, cough and headache from continuous work exposure to respiratory irritants." While he indicated that appellant related that there were water leaks as well as mold and mildew at work, Dr. Kylberg did not provide an opinion on causal relationship. In an August 30, 2006 treatment note, Dr. Kylberg indicated that appellant related that she was exposed to water leaks and mold at work. He diagnosed "chronic sinusitis with possible mild exposure, possible standing water exposure," and indicated, "consider Legionella." However, this report is speculative. While the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute certainty, neither can such opinion be speculative or equivocal. The opinion of a physician supporting causal relationship must be one of reasonable medical certainty that the condition for which compensation is claimed is causally related to federal employment and such relationship must be supported with affirmative evidence, explained by medical rationale and be based upon a complete and accurate medical and factual background of the claimant.⁶ Dr. Kylberg, while noting work exposure to mold, recommended avoiding exposure to regions that would cause mold exposure. However, his report did not contain any medical rationale explaining how appellant's exposures at work caused or aggravated her claimed conditions. A medical report is of limited probative value on

⁵ *Id.*

⁶ *Thomas A. Faber*, 50 ECAB 566 (1999) *Samuel Senkow*, 50 ECAB 370 (1999).

the issue of causal relationship if it contains a conclusion regarding causal relationship that is unsupported by medical rationale.⁷

The record also contains a September 12, 2006 report from Dr. Kylberg, an August 17, 2006 prescription from Dr. Mask, laboratory reports and emergency room records from August 17, 2006, an August 22, 2005 x-ray from Dr. Stewart and a September 20, 2006 report from Dr. Long in which he diagnosed, including allergic rhinitis, allergic conjunctivitis and advised that appellant stay away from areas with mold infestation, strong odors, strong smells, and chemicals. However, these reports are insufficient as they did not provide any opinion on causal relationship.⁸

The record also contains information from nurses. However, health care providers such as nurses, acupuncturists, physician's assistants and physical therapists are not physicians under the Act. Thus, their opinions on causal relationship do not constitute rationalized medical opinions and have no weight or probative value.⁹

Appellant also submitted several articles about mold. 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 an employee's federal employment. Such materials are of general application and are not determinative of whether the specific condition claimed is related to the particular employment factors alleged by the employee.¹⁰

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.¹¹ 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.¹² Causal relationship must be substantiated by reasoned medical opinion evidence, which is appellant's responsibility to submit.

As there is no medical evidence explaining how appellant's employment duties caused or aggravated her sore throat, sinus and respiratory problems, appellant has not met her burden of

⁷ *Robert S. Winchester*, 54 ECAB 191 (2002).

⁸ *Id.*

⁹ *Jan A. White*, 34 ECAB 515, 518 (1983).

¹⁰ *William C. Bush*, 40 ECAB 1064, 1075 (1989).

¹¹ *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

¹² *Id.*

proof in establishing that she sustained a medical condition in the performance of duty causally related to factors of her employment.¹³

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the December 27, 2006 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Issued: August 14, 2007
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

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

¹³ The Board notes that, subsequent to the Office's December 27, 2006 decision, appellant submitted additional evidence. The Board has no jurisdiction to review this evidence for the first time on appeal. 20 C.F.R. § 501.2(c); *James C. Campbell*, 5 ECAB 35, 36 n.2 (1952).