

supervisor advised that routine environmental testing revealed no airborne irritants. The record indicates that appellant submitted an application for retirement August 2006.

Appellant stated that her symptoms began in 2002 when her office moved into its current location. She noted that her work space had glued on wallpaper and ceiling tiles. Appellant stated that whenever the gym area above her office space was in use, the dust from the ceiling tiles fell on her desk, her workstation and on herself. She smelled chemicals used on the new elevators, other chemicals that came through the ventilation system and aromas from small fires within the building. Appellant claimed that these exposures caused allergic rhinitis and acute sinusitis. She submitted medical reports from Dr. Michael E. Stone, a Board-certified otolaryngologist. In progress notes dated January 26 to March 21, 2006, Dr. Stone diagnosed chronic sinusitis. Nasal endoscopy was performed on January 26, March 9 and 21, 2006. Dr. Stone noted an endoscopic sinus surgery might be indicated.

By letter dated April 10, 2006, the Office advised appellant that the evidence submitted was insufficient to establish her claim. It requested detailed information about the employment-related exposure that she believed caused her conditions, the duties she performed during any exposure, the length of time of exposure and her exposure to irritants outside federal employment. It also requested that appellant submit a comprehensive medical report from her treating physician describing her symptoms, results of examinations and tests, diagnosis, treatment, the effect of treatment and a rationalized medical opinion as to whether her condition was employment related.

The employing establishment submitted a description of appellant's job as a paralegal specialist.

In a statement received May 24, 2006, appellant stated that she did not know the chemicals present in her building. During the prior summer, her union twice raised concerns about odors in the building's ventilation system and that the office was cited and had to restore leave. Appellant stated that chemicals used to clean, repair and maintain the new elevators were an irritant. The employing establishment apologized over the building's public address system for odors due to various work being done in certain areas of the building, as well as small fires in the building and a large fire the previous summer where smoke entered the ventilation system. Appellant stated that the maintenance department attempted to repair a leaking air conditioning system for the computer server over 20 times in the past year. When one section of the building became soaked in water over a weekend, proper cleanup for mold and mildew was not attempted. Appellant stated that, since the previous fall and winter, remodeling of the outer building surfaces, including sandblasting, caused excessive dust. She stated that the dust made her sneeze and cough and caused teary and watery eyes. Appellant stated that no protective equipment was offered and no alternative workstations were made available. She stated that, once her director and a maintenance person smelled the odor she had complained of, she was told she could move to a vacant office two doors down. Appellant previously smoked more than a half pack of cigarettes per day, but by the time her problems began, she was smoking three to four cigarettes per day and stopped smoking after her last exacerbation over the winter. She stated that her home environment was clean she submitted reports from the Providence Hospital diagnosing hay fever and acute sinusitis and disability slips and treatment records from Dr. Stone dated January 26 to March 21, 2006 diagnosing chronic sinusitis.

In a March 22, 2006 report, Dr. Kamran Zakaria, a Board-certified family practitioner, advised that appellant had allergic rhinitis for several years and symptoms related to her condition. He stated that she had an increase in her symptoms over the last couple of years along with several bouts of sinus infections which required antibiotics and steroids in addition to her usual medications. Dr. Zakaria noted on February 20, 2006 that Dr. Stone performed surgery for appellant's chronic sinusitis.

On June 7, 2006 the Office requested that the employing establishment comment on appellant's allegations. In a June 30, 2006 letter, Kyle Andeer, appellant's supervisor, advised that, since appellant provided no dates for the two occasions that union involvement was noted, he could not respond to those specific incidents. He did note that his office had never been "cited" and "restored no leave" under any contract Health and Safety provisions. Mr. Andeer stated that there was an occasion when leave was changed for leaving work early due to high temperatures in the building, but not due to odors. He denied ever noting an odor related to the multi-year elevator reconstruction program and stated that he never heard appellant or any other employees complain about the environmental problems with that work. Mr. Andeer stated that he did not recall any announcements made, such as building apologies. Regarding appellant's reports of a fire and smoke getting into the building, he stated that there was a fire some distance from the building and while some smoke was brought into the building, the intake vents were closed within a short time. Mr. Andeer was not in the building that day, but he understood there was a faint odor of smoke on their floor. He noted that appellant's comments about the air conditioner unit in the computer room had no merit. Mr. Andeer advised that, while there were initial overheating problems when it was first moved into its space, no real or potential danger resulted. He denied any knowledge of another floor being flooded. Regarding appellant's statements of sandblasting of the building's exterior and reconstruction of the surrounding plaza, Mr. Andeer stated that he never smelled or noticed any dust related to that project either inside or outside and had never heard any complaints from appellant or others during that time frame. Regarding bathroom mold and mildew, he noted that he not received any such complaints in the public restroom and stated that this area was regularly inspected by Government Service Administration (GSA) employees. Mr. Andeer stated that appellant never advised him that her breathing troubles were related to work factors until she heard that other building employees reported health problems. On the day that appellant reported an odor in her office, several people commented upon an odor which was barely noticeable. At that time, she requested to move to a different office which Mr. Andeer agreed to. Mr. Andeer stated that a judge was now working in the office vacated by appellant. He also indicated that appellant was frequently seen outside the building in a smoking area. Mr. Andeer stated that no other person in his office of 50 employees had similar complaints.

By decision dated September 13, 2006, the Office found the evidence of record insufficient to establish that appellant sustained an injury in the performance of duty. The Office found that the factual evidence was insufficient to support that appellant was exposed to the employment conditions alleged.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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 filed within the applicable time limitation; that an injury was sustained while 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.² These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury and an occupational disease.³

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;⁴ (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;⁵ and (3) medical evidence establishing 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.⁶

Generally, causal relationship may be established only by rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that 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.⁷ The opinion of the physician must be based on a complete factual and medical background of the claimant,⁸ must be one of reasonable medical certainty⁹ explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹⁰

¹ 5 U.S.C. §§ 8101-8193.

² *Caroline Thomas*, 51 ECAB 451 (2000); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *See Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999).

⁴ *Solomon Polen*, 51 ECAB 341 (2000).

⁵ *Marlon Vera*, 54 ECAB 834 (2003); *Roger Williams*, 52 ECAB 468 (2001).

⁶ *Ernest St. Pierre*, 51 ECAB 623 (2000).

⁷ *Conrad Hightower*, 54 ECAB 796 (2003); *Leslie C. Moore*, 52 ECAB 132 (2000).

⁸ *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

⁹ *John W. Montoya*, 54 ECAB 306 (2003).

¹⁰ *Judy C. Rogers*, 54 ECAB 693 (2003).

ANALYSIS

The record reflects that appellant has allergic rhinitis and a chronic sinusitis condition, for which she underwent treatment. The Office denied appellant's claim on the grounds that the factual evidence was insufficient to support that she was exposed as alleged. The Board finds that appellant failed to submit sufficient factual evidence to support certain aspects of her claimed exposures. Appellant failed to provide specific dates of occurrences and identify specific chemicals to which she was exposed. She also failed to submit any evidence to corroborate her allegations pertaining to her office being cited for violations under the Health and Safety areas of a union contract, odors relating to the elevator reconstruction program; odors, dust or complaints relating to the sandblasting project; mold or mildew complaints in the public restroom; sprinklers going off and the area not cleaned out properly; and dust falling off the ceiling tiles in appellant's office. The employing establishment specifically disputed those allegations and appellant did not provide specific evidence corroborating her allegations. Appellant failed to establish that those events occurred as alleged.¹¹

The evidence does corroborate that appellant's office was located on the side of the building where the air intake vent is located; one day there was a faint smoke smell in the building; and one day there was an odor in her office of unknown origin. Thus, appellant established part of the employment-related exposure that she believed caused her conditions.

The Board, however, finds that appellant has submitted insufficient medical evidence to establish that her allergic rhinitis and acute sinusitis were caused or aggravated by her workplace exposures. The medical evidence of record submitted by appellant includes a July 24, 2005 emergency room report and consultation and disability slips from Providence Hospital disability slips and treatment records from Dr. Stone dated January 26 to March 21, 2006 and 22, 2006 report from Dr. Zakaria. This evidence fails to provide a physician's opinion that appellant's allergic rhinitis, chronic sinusitis or sinus condition were caused or aggravated by any claimed exposure. The Board has long held that 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.¹²

The remainder of the evidence submitted by appellant is not relevant to her claim as it does not pertain to any specific incidents claimed by appellant or establish employment factors.

The record contains no rationalized medical opinion explaining the cause of or exacerbation of appellant's symptoms related to established workplace exposure. The Office informed appellant of the deficiencies in her claim and what was needed to establish her claim in a letter dated April 10, 2006. 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

¹¹ See *M.W.*, 57 ECAB ____ (Docket No. 06-749, August 15, 2006).

¹² *Michael E. Smith*, 50 ECAB 313 (1999).

between the two.¹³ 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.¹⁴ Causal relationship must be substantiated by reasoned medical opinion evidence which is appellant's responsibility to submit.

There is no probative medical evidence addressing how appellant's claimed conditions which the record established were caused or aggravated by the established workplace exposure. She has not met her burden of proof in establishing that she sustained a medical condition in the performance of duty causally related to factors of employment.

CONCLUSION

Appellant has not met her burden of proof in establishing that she developed an occupational disease in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the September 13, 2006 decision of the Office of Workers' Compensation Programs is affirmed as modified.

Issued: June 25, 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 A.D., 58 ECAB ____ (Docket No. 06-1183, issued November 14, 2006); see *Joe T. Williams*, 44 ECAB 518, 521 (1993).

¹⁴ *Id.*