

**United States Department of Labor
Employees' Compensation Appeals Board**

D.J., Appellant

and

**U.S. POSTAL SERVICE, GENERAL MAIL
FACILITY, Boston, MA, Employer**

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**Docket No. 07-650
Issued: June 20, 2007**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On January 8, 2007 appellant filed a timely appeal from May 3 and November 29, 2006 decisions of the Office of Workers' Compensation Programs, denying her claim for an occupational disease. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the claim.

ISSUE

The issue is whether appellant met her burden of proof in establishing that she developed an occupational disease in the performance of duty.

FACTUAL HISTORY

On March 18, 2006 appellant, then a 56-year-old mail handler, filed a claim alleging that she developed an allergic reaction that day to her work environment. She experienced a rash on her arms, a swollen tongue, coughing, burning sensations on her lips and in her throat, nasal

congestion and increased blood pressure. The employing establishment controverted the claim.¹ Appellant stopped work and did not return.

Hospital emergency room discharge instructions dated February 13, 2006 indicated that appellant had an acute allergic reaction and should consult her primary care physician for evaluation of a possible environmental allergy. On February 15, 2006 a Dr. Robert K. Leet stated that appellant experienced severe allergic reactions (hives, bronchospasm and nasal respiratory symptoms) when she entered a “new work environment.” He recommended that she move to a cleaner office work environment.

In a March 18, 2006 form report, Dr. James M. Learning, an emergency room physician, diagnosed an environmentally-related allergic reaction possibly related to a workplace exposure. He indicated by checking “yes” that the condition was related to appellant’s workplace. Appellant had a similar experience in February 2006 and was waiting for the results of allergy testing.

On March 24, 2006 the Office asked appellant to provide additional evidence, including a comprehensive medical report explaining how her allergic reaction was causally related to factors of her employment.

On April 13, 2006 Dr. Steven Matloff, an allergy specialist, stated that appellant had experienced severe allergic reactions of generalized hives, bronchospasm, nasal congestion and throat swelling while at work on February 13 and March 18, 2006 and went to the emergency room. He recommended that appellant return to her previous work facility where she had no allergic or hypersensitivity symptoms.

On May 2, 2006 Dr. Richard Stevens, an employing establishment physician, provided a history of appellant’s condition and a review of the medical evidence. He stated that the medical evidence did not establish that she had an allergic condition causally related to airborne allergens in her work environment. Dr. Stevens noted that the medical unit records of March 18, 2006 did not find redness, irritation or swelling other than inside both forearms. Emergency room records of that date were negative for cough or shortness of breath, with no hives visible or skin rash. Dr. Stevens stated his disagreement with the history reported by Dr. Matloff.

By decision dated May 3, 2006, the Office denied appellant’s claim on the grounds that the evidence did not establish a causal relationship between any allergic reaction and her employment.

¹ Appellant’s supervisor noted that on March 18, 2006 he advised appellant that she was being moved to the new building platform to work, noting that she was an unassigned part-time employee with less seniority to other coworkers. Appellant objected and requested to go to the medical unit.

On June 22, 2006 Dr. Matloff stated that appellant's medical history was consistent with a severe life threatening allergic response to an allergen or irritant in her work environment. He stated:

“From the environmental description with the mouse infestation, very high levels of dust, and diesel fumes any one of these could be responsible for causing reactions that [appellant] had been experiencing in that setting.”

“In my medical opinion, both of [appellant's] severe life threatening reactions were caused by and related to [her] work conditions.... These conditions have arisen because of the excessive amounts of dust, rodent droppings and other irritants present in that facility.”

“[Appellant's] diagnosis is severe life threatening allergic reaction secondary to environmental allergens and irritants. Severe life threatening anaphylaxis. [Appellant's] prognosis is good if [she] avoid[s] this work facility, but if [she] returns to this facility [she] will be a high risk for recurrent life threatening and potentially lethal anaphylactic reactions.”

Appellant requested a hearing that was held by telephone on September 11, 2006. She alleged that she was exposed to dust, dirt, birds, rodent droppings and vehicle exhaust fumes in the loading dock area at the employing establishment.

By decision dated November 29, 2006, the Office hearing representative affirmed the May 3, 2006 denial of appellant's claim. The hearing representative accepted appellant's description to substances in her workplace. The hearing representative affirmed the denial as modified, to find that the medical evidence was insufficient to establish that she sustained a condition causally related to any exposures at work.

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; (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 evidence.² Rationalized medical opinion evidence is medical evidence which includes a

² *Michael S. Mina*, 57 ECAB ____ (Docket No. 05-1763, issued February 7, 2006).

physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's 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.³

An award of compensation may not be based on surmise, conjecture, speculation or upon appellant's own belief that there is a causal relationship between her claimed injury and her employment.⁴ To establish a causal relationship, appellant must submit a physician's report in which the physician reviews the employment factors identified by appellant as causing her condition and, taking these factors into consideration, as well as findings upon physical examination of appellant and her medical history, state whether the employment factors caused or aggravated appellant's diagnosed conditions and present medical rationale in support of his or her opinion.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 record reflects that she claimed allergic reactions on February 13 and March 18, 2006. Appellant alleged that she was exposed to dust, dirt, birds, rodent droppings and vehicle exhaust fumes at work and that this exposure caused allergic reactions. However, she has not established that any allergic reaction is causally related to exposure to allergens or irritants at work.

In support of her claim, appellant submitted various reports relating to her allergic reaction. These reports, however, did not explain which exposures or substances in her work environment caused an allergic reaction.

On February 15, 2006 Dr. Leet stated that appellant experienced severe allergic reactions (hives, bronchospasm and nasal respiratory symptoms) when she entered a new work environment on February 13, 2006. However, he did not identify the specific irritants or allergens which might have caused any allergic reaction. Dr. Leet's brief note did not provide any medical history or findings on examination. Therefore, this evidence does not establish that appellant's February 13, 2006 reaction was caused or aggravated by the factors she identified: dust, dirt, birds, rodent droppings and vehicle exhaust fumes.

On March 18, 2006 Dr. Learning diagnosed an environmentally-related allergic reaction possibly related to a workplace exposure. He indicated by checking "yes" that the condition was related to appellant's workplace. The Board has held that a physician's opinion on causal relationship which consists only of checking "yes" to a form report is of diminished probative

³ *Gary J. Watling*, 52 ECAB 278 (2001); *Gloria J. McPherson*, 51 ECAB 441 (2000).

⁴ *Donald W. Long*, 41 ECAB 142 (1989).

⁵ *Id.*

value on the issue of causal relationship.⁶ Additionally, Dr. Learning did not identify the specific industrial exposure that caused appellant's allergic reaction or the results of any allergy testing. Due to these deficiencies, his reports do not establish that appellant's allergic reaction was caused or aggravated by the accepted substances in her workplace.

On April 13, 2006 Dr. Matloff stated that appellant had experienced severe allergic reactions of generalized hives, bronchospasm, nasal congestion and throat swelling while at work on February 13 and March 18, 2006. He related a history obtained from appellant and did not provide any physical findings or allergy test results. On June 22, 2006 Dr. Matloff stated that appellant's medical history was consistent with a severe life threatening allergic response to an allergen or irritant in her work environment. He indicated that any one of the irritants identified by appellant, mouse droppings, high levels of dust, and diesel fumes, could be responsible for her allergic reactions. Dr. Matloff stated his opinion that appellant's severe life threatening allergic reaction was caused by the irritants in her workplace. Although, he stated that the irritants identified by appellant could be responsible for her claimed allergic reaction, his opinion is not based on any allergy test results to support his opinion. Therefore, Dr. Matloff's opinion is based on speculation rather than objective evidence. His opinion on causal relationship is not sufficiently rationalized to establish that appellant's allergic reaction was caused by factors of her employment. Medical reports not containing adequate rationale on causal relationship are of diminished probative value and are generally insufficient to meet an employee's burden of proof.⁷ Lacking a complete and accurate medical background and sufficient medical rationale addressing the issue of causal relationship, Dr. Matloff's reports are not sufficient to establish that appellant's allergic reaction on February 13 and March 18, 2006 was caused or aggravated by factors of her employment.

For these reasons, appellant has not met her burden of proof in establishing her occupational disease claim.

CONCLUSION

The Board finds that appellant failed to meet her burden of proof in establishing that she developed an occupational disease in the performance of duty.

⁶ See Gary J. Watling, *supra* note 3.

⁷ *Ceferino L. Gonzales*, 32 ECAB 1591 (1981).

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated November 29 and May 3, 2006 are affirmed.

Issued: June 20, 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