

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

S.W., Appellant

and

**DEPARTMENT OF COMMERCE, BUREAU
OF THE CENSUS, NATIONAL PROCESSING
CENTER, Jeffersonville, IN, Employer**

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**Docket No. 07-1024
Issued: September 7, 2007**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On March 6, 2007 appellant filed an appeal of August 6 and December 7, 2006 decisions of the Office of Workers' Compensation Programs denying his occupational disease claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this claim.

ISSUE

The issue is whether appellant established that he sustained respiratory, lung, eye or neurologic injuries in the performance of duty due to accepted workplace chemical exposures.

FACTUAL HISTORY

On June 16, 2006 appellant, then a 51-year-old mail processing equipment operator, filed a traumatic injury claim (Form CA-1)¹ alleging that he sustained headaches, blurred vision, nausea, weakness, a sore throat and trouble concentrating due to exposure to the adhesive PAM-X on May 6, 2006. The employing establishment confirmed that appellant was exposed to PAM-X 7071 white padding adhesive from April 27 to June 15, 2006 for up to eight hours a day. He was assigned to apply PAM-X with a paintbrush to stacks of paper to create memorandum pads. The employing establishment did not provide goggles, a mask or protective clothing. Appellant was absent from work for three weeks beginning June 19, 2006.

In a June 23, 2006 report, Dr. Lisa C. Campisano, an attending family practitioner, diagnosed “adverse effects” secondary to PAM-X exposure for two weeks.

In a July 5, 2006 letter, the Office advised appellant of the additional evidence needed to establish his claim, including a rationalized statement from his attending physician explaining how and why the identified exposures would cause the claimed conditions.

The employing establishment submitted material safety data sheets showing that PAM-X contained synthetic resins, plastics, arsenic, benzene and a variety of organic chemicals. PAM-X was classified as an eye, skin and respiratory irritant. Protective clothing was recommended.

In a June 16, 2006 report, Dr. Campisano diagnosed an eye irritation, headaches and “adverse reaction” to PAM-X exposure at work beginning on April 26, 2006. She prescribed a bronchodilator and eye drops.

In a July 17, 2006 letter, appellant noted that he quit smoking in September 2003 and had no other respiratory disorders.

By decision dated August 7, 2006, the Office denied appellant’s claim on the grounds that causal relationship was not established. The Office found that appellant was exposed to PAM-X on May 6, 2006, but that the medical evidence did not establish a diagnosis caused by the exposure.

In an August 23, 2006 letter, appellant requested a review of the written record. He submitted additional evidence. A June 16, 2006 spirometry was normal. A June 16, 2006 chest x-rays showed mild hyperaeration possibly indicative of emphysema. Appellant had several granulomas but no acute cardiopulmonary disease.

A June 21, 2006 employing establishment incident report states that appellant was not given protective clothing while working with PAM-X in April and May 2006.

¹ In a July 17, 2006 letter, appellant requested that his traumatic injury claim be changed to one for occupational disease. In an August 22, 2006 report, the employing establishment advised appellant that he should have filed a notice of occupational disease (Form CA-2) and not a claim for traumatic injury (Form CA-1).

In an August 17, 2006 report, Dr. Campisano stated that appellant presented on June 16, 2006 after exposure to PAM-X adhesive fumes at work in a poorly ventilated area from April 28 to mid May 2006. He related symptoms of diarrhea, nausea, abdominal cramping, headache, blurred vision, nose and throat irritation, mild shortness of breath, significant fatigue, anxiety, difficulty concentrating and frequent urination. Dr. Campisano reviewed information from a poison control center confirming that “short-term respiratory effects, light-headedness and headache [were] related to the volatile components of the PAM-X.” He treated appellant for respiratory irritation with an inhaler and recommended an artificial tears product for eye dryness. Appellant also underwent an in-office nebulizer treatment which improved his air movement. Dr. Campisano opined that based on the poison control information, she would “expect that [appellant] would recover completely from the respiratory effects of the exposure that he reported.... [A]ny ill effects should be short-term secondary to the volatile nature of the fumes.”

By decision dated and finalized December 7, 2006, an Office hearing representative affirmed the August 7, 2006 decision finding that causal relationship was not established. The hearing representative modified the prior decision to find that the claim was one for occupational disease. It accepted that appellant was exposed to PAM-X adhesive in the performance of duty from approximately April 27 to May 16, 2006. However, the medical evidence did not establish that appellant sustained a diagnosed condition resulting from that exposure. The hearing representative noted Dr. Campisano’s opinion that any respiratory effects would have been short-term, indicating that they should have resolved prior to appellant seeking treatment on June 16, 2006.

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 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.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on 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) 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

² 5 U.S.C. §§ 8101-8193.

³ *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *See Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999).

diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship is generally 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 Office accepted that appellant was exposed to PAM-X adhesive from approximately April 27 to May 16, 2006. In order to prevail, appellant must establish that his exposure caused the claimed conditions.

Appellant submitted reports from Dr. Campisano, an attending family practitioner. In June 16 and 23, 2006 reports, Dr. Campisano diagnosed an eye irritation, headaches and "adverse effects" secondary to occupational PAM-X exposure for two weeks beginning April 26, 2006. She did not attribute appellant's other presenting symptoms to PAM-X exposure. On August 17, 2006 Dr. Campisano opined that the short-term respiratory effects and light-headedness caused by PAM-X exposure should resolve quickly and completely due to the volatile nature of the fumes. She did not explain how or why appellant's exposure to PAM-X ending on approximately May 16, 2006 would continue to cause any condition on June 16, 2006 when appellant presented for treatment. Without such rationale, Dr. Campisano's opinion is insufficient to establish causal relationship.⁶

The Board notes that appellant was advised by the July 5, 2006 letter of the necessity of submitting rationalized medical evidence supporting a causal relationship between the accepted exposures to PAM-X and the claimed conditions. However, appellant did not submit such evidence. The Board, therefore, finds that appellant has not established that he sustained any injury due to the accepted chemical exposures from April 27 to May 15, 2006.⁷

CONCLUSION

The Board finds that appellant has not established that he sustained eye, lung, respiratory or neurologic injuries in the performance of duty.

⁵ *Solomon Polen*, 51 ECAB 341 (2000).

⁶ *Steven S. Saleh*, 55 ECAB 169 (2003).

⁷ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated December 7 and August 6, 2006 are affirmed.

Issued: September 7, 2007
Washington, DC

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

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

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