



reported a date of injury as July 18, 2006 and described the nature of the injury as “body fluid exposure.”

In a report dated September 6, 2006, Internists Dr. Dilek Ince and Dr. Jack Stapleton provided a history that appellant was diagnosed with human immunodeficiency virus (HIV) in August 2006. They noted that appellant’s risk factors included unprotected sex with male partners and that a prior November 2005 HIV test had been negative. The diagnoses included asymptomatic HIV infection, depression and attention deficit hyperactivity disorder. In a report dated October 4, 2006, Drs. Ince and Stapleton stated that appellant’s lymphocyte count suggested he was probably not infected in the past three to six months. They noted contact with HIV-infected body fluids most likely occurs with sexual contact. Drs. Ince and Stapleton noted that appellant reported he was exposed to “bodily fluids at his workplace including splashes of bloody instruments to his face, and being poked with sharp instruments, and believes this is the most likely mode of transmission.” According to Drs. Ince and Stapleton, “We are not sure what kind of an exposure [appellant] has had at his workplace” between the time of a negative HIV test in October/November 2005 and the summer of 2006 and exposure to HIV through intact skin would rarely result in transmission.

By statement dated November 15, 2006, appellant asserted that proper procedures were not followed at the employing establishment regarding the cleaning and preparation of instruments and supplies. In a December 19, 2006 response, an employing establishment supervisor stated that all staff were provided with proper training for cleaning and disinfecting instrumentation and equipment. The supervisor reported that policies and procedures were properly followed on a daily basis.

In a statement dated February 27, 2007, appellant reported a “fluid exposure” on May 27, 2004 and that his HIV test in November 2005 was negative. He indicated he began working in March 2001 and had regular HIV testing because of the type of work he performed.

By decision dated March 6, 2007, the Office denied the claim for compensation. The Office found the evidence was insufficient to establish the alleged exposure, and the medical evidence was also insufficient.

Appellant requested a hearing before an Office hearing representative, which was held on July 27, 2007. He noted that he generally wore gloves and gowns while in the performance of duty. Appellant stated that he believed he “was exposed to something because somebody failed to properly clean the instruments sent through the breezeway.” He referred to an incident involving a cart that was not cleaned correctly and still contained blood on it, and appellant got blood on his hands. According to appellant, he did not have any gloves on and he washed his hands after the incident. Appellant indicated that he could not remember the exact date of the incident, but he did report it to his supervisor. He also indicated that there was an incident where he was stuck with a dental instrument, and he was immediately tested.<sup>1</sup>

By report dated August 9, 2007, Drs. Ince and Stapleton stated that HIV transmission to healthcare workers usually occurred through needle stick injuries (approximately 0.2 percent of

---

<sup>1</sup> Appellant also reported a needle stick incident occurring in spring 2007, for which he filed a separate claim.

cases); in the case of mucosal exposure, the risk is less. According to the physicians, exposure to intact skin did not result in HIV transmission in one study, but this mode of transmission had been shown to occur in other studies. Drs. Ince and Stapleton opined that appellant “was exposed to blood and body fluids as part of his job. It is possible that he contracted HIV in the workplace.”

In a decision dated November 16, 2007, an Office hearing representative affirmed the March 6, 2007 decision. The hearing representative found that appellant had not submitted sufficient medical evidence to establish the occupational claim.

### **LEGAL PRECEDENT**

A claimant seeking benefits under the Federal Employees’ Compensation Act<sup>2</sup> has the burden of establishing the essential elements of his claim by the weight of the reliable, probative and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.<sup>3</sup>

To establish that an injury was sustained in the performance of duty, a claimant must submit: (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 diagnosed condition is causally related to the employment factors identified by the claimant.<sup>4</sup>

Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.<sup>5</sup> A physician’s opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant.<sup>6</sup> Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant’s specific employment factors.<sup>7</sup>

---

<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> 20 C.F.R. § 10.115(e), (f) (2005); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

<sup>4</sup> *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

<sup>5</sup> See *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>6</sup> *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>7</sup> *Id.*

## ANALYSIS

As to the factual element of this occupational claim, appellant has described his duties as a medical supply technician. There does not appear to be any dispute that appellant's job involved the handling of blood and bodily fluids. With regard to his allegation that he routinely handled equipment that was not properly cleaned, there is no probative evidence in support of this allegation. The employing establishment supervisor reported the staff was properly trained and appropriate procedures were followed and no contrary evidence was presented. Appellant referred to a bloody cart incident that apparently occurred in July 2006, although he could not recall the specific date at the hearing before the Office hearing representative. A needle stick incident occurred after the HIV infection was diagnosed and appellant reported a dental instrument incident without providing the date of the incident or other detail.

The factual evidence therefore supports that appellant worked in an environment that would expose him to blood and bodily fluids, and in July 2006 he got blood on his hands from a cart. There is insufficient evidence to establish a specific needle stick or similar incident prior to the HIV diagnosis. To meet appellant's burden of proof in establishing the claim, there must be medical evidence that provides a complete and accurate history and a rationalized medical opinion on causal relationship between the employment factors and a diagnosed condition. Drs. Ince and Stapleton provided a general history that appellant was exposed to blood and bodily fluids, without providing a detailed factual and medical background. Moreover, the record does not contain a rationalized medical opinion supporting appellant's claim for compensation. Drs. Ince and Stapleton provided a speculative opinion that it was "possible" appellant contacted HIV in the workplace, which is of diminished probative value. Medical opinions that are speculative and not supported by medical rationale are generally entitled to little probative value and are insufficient to meet appellant's burden of proof.<sup>8</sup>

The Board accordingly finds that appellant did not meet his burden of proof in this case. The record does not contain a rationalized medical opinion, based on a complete and accurate background, establishing causal relationship between HIV infection or other diagnosed condition and the identified employment factors.

## CONCLUSION

Appellant did not meet his burden of proof to establish an injury causally related to work factors as a medical supply technician.

---

<sup>8</sup> *Kathy A. Kelley*, 55 ECAB 206, 211 (2004); *Carolyn F. Allen*, 47 ECAB 240 (1995).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decisions of the Office of Workers' Compensation Programs dated November 16 and March 6, 2007 are affirmed.

Issued: June 4, 2008  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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