

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

A.D., Appellant)

and)

U.S. POSTAL SERVICE, POST OFFICE,)
Baltimore, MD, Employer)

**Docket No. 09-1585
Issued: March 1, 2010**

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 May 29, 2009 appellant filed a timely appeal of the Office of Workers' Compensation Programs' merit decision dated February 3, 2009. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met her burden of proof to establish that she developed respiratory diseases due to her employment.

FACTUAL HISTORY

On February 16, 2008 appellant, then a 52-year-old clerk, filed an occupational disease claim alleging that she developed sinusitis and acute bronchitis due to factors of her federal employment. In her narrative statement, she alleged that the employing establishment did not have enough ventilation to expel the dust generated by the automated flats sorting machine 100 (AFSM100) on which she worked. Appellant stated that her exposure to dust irritated her eyes, nostrils and lungs resulting in sinusitis and bronchitis.

Dr. Anastasia Rowland-Seymour, an internist of professorial rank, completed a report on February 15, 2008 and stated that appellant's allergies were triggered by environmental exposures at work. She noted that appellant had frequent exposure to dust from the mail sorting machine causing allergic rhinitis, recurrent sinusitis and episodic bronchitis. Appellant also developed headaches. Dr. Rowland-Seymour recommended that appellant limit her exposures to allergens, by switching her station or seeking another position at the employing establishment. She noted that appellant already used goggles and a mask and also recommended light duty for 12 weeks to reduce appellant's headaches, chronic allergic rhinitis with postnasal drip and recurrent sinusitis.

In a letter dated March 14, 2008, the Office requested additional factual and medical evidence from appellant and allowed 30 days for a response. The employing establishment submitted a description of the operation of the AFSM100. The employing establishment also submitted results of an air quality study which found that dust at appellant's workstation was 50 times below the permissible exposure limit.

Appellant responded on April 11, 2008 and stated that the AFSM100 operated three feeders at high rate of speed which projected an "enormous amount of dust particles." She stated that in the work area dust was visible on the surfaces and in the air. Appellant alleged that at the induction station the air suction was so strong that dust particles were expelled toward her face and that mail trays moved over her head causing dust to fall on her. She noted that the employing establishment initially installed a dust remover machine, but then had it removed. Appellant also alleged that there was no ventilation at her workstation. She denied any exposure to irritants outside of work. Appellant stated that she first became aware of her condition on December 16, 2004.

In a report dated April 2, 2008, Dr. Rowland-Seymour stated that she first examined appellant in March 2007. Appellant reported that her symptoms improved when she was away from work on the weekend or vacation. Dr. Rowland-Seymour stated that appellant had symptoms of sinus congestion, itchy eyes, post nasal drip, cough and headache.

Dr. Devish D. Kanjarpane, an employing establishment physician Board-certified in occupational and environmental medicine and preventative medicine, stated that appellant was allergic to dust mites and that there was no basis to causally link the workplace machine operation and her reported symptoms. He stated that dust was pulled into the machine not expelled as described by appellant.

On June 17, 2008 Dr. Peter S. Creticos, an allergist, noted that appellant believed that her allergic symptoms were related to her job at the letter sorting machine. He found that appellant's skin test was positive for dust mites, insects, animals and tree pollens. Dr. Creticos diagnosed perennial allergic rhinitis, seasonal allergic rhinitis, chronic sinusitis, episodic asthma and hypertension.

By decision dated August 29, 2008, the Office denied appellant's claim, finding that the evidence did not establish that she was exposed to dust at work.

Appellant requested a review of the written record on September 24, 2008.

In a decision dated February 3, 2009, an Office hearing representative found that the factual evidence was sufficient to establish exposure to dust at the employing establishment. The air quality testing study, however, did not support the level of dust alleged or that sorting machine expelled dust directly at appellant. Appellant did not submit sufficient medical opinion evidence to establish a causal relationship between her diagnosed conditions and her employment exposures.

On appeal, appellant contends that the medical evidence established that her conditions are due to her employment.

LEGAL PRECEDENT

An occupational disease or illness means a condition produced by the work environment over a period longer than a single workday or shift.¹ 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 a disease or condition for which compensation is claimed; (2) a factual statement identifying the 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. The medical opinion 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.²

ANALYSIS

Appellant has submitted medical evidence that diagnosed rhinitis, sinusitis, bronchitis and asthma. She established that she was exposed dust at the employing establishment, the employment factor which she believed caused or contributed to her diagnosed condition. However, the Board finds that appellant has not submitted sufficient rationalized medical opinion to establish the causal relationship between her diagnosed conditions and her employment exposures.

Dr. Rowland-Seymour, an internist of professorial rank, stated on February 15, 2008 that appellant's allergic symptoms were triggered by environmental exposures at work. She opined that appellant had frequent exposure to dust from the mail sorting machine causing allergic rhinitis, recurrent sinusitis and episodic bronchitis. Dr. Rowland-Seymour also noted that appellant reported improvement in her symptoms when she was away from work on the weekend or vacation. The record does not support the level of dust exposure alleged by appellant. The employing establishment established that appellant's workplace dust was 50 times less than that allowed and submitted evidence that the machine appellant used inhaled rather than expelled dust. Dr. Rowland-Seymour did not have an accurate factual description of appellant's employment-related dust exposure. Her opinion is of diminished probative value for this reason.

¹ 20 C.F.R. § 10.5(q).

² *Solomon Polen*, 51 ECAB 341, 343-44 (2000).

Dr. Creticos examined appellant and performed skin tests on June 17, 2008 to determine her allergies. While he noted that appellant attributed her allergies to her employment-related dust exposure, he did not offer any opinion on the causal relationship between appellant's allergy to dust mites and any employment exposure to dust. This report does not support appellant's claim. The medical evidence of record is not sufficient to establish that appellant's employment caused or aggravated her diagnosed conditions.

CONCLUSION

The Board finds that appellant has not established that her diagnosed conditions were caused or aggravated by exposure to dust in the course of her employment.

ORDER

IT IS HEREBY ORDERED THAT the February 3, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 1, 2010
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