

as a result of industrial exposure to a contaminated water supply and toxic vapor and gases. She became aware of her condition and its relationship to her employment on January 22, 2006. Appellant did not incur any lost time from work.

Appellant submitted medical evidence. A January 19, 2006 sonogram obtained by Dr. Douglas D. Mathis, a Board-certified diagnostic radiologist, exhibited dominant nodules on the inferior poles of the left and right thyroid lobes. In a February 24, 2008 cytopathology report, Dr. Alan E. Roth, a Board-certified anatomic and clinical pathologist, conducted fine needle aspiration of both nodules and found follicular cells, macrophages and colloid traces suggestive of adenomatous goiter.

In a June 22, 2006 report, Dr. Joseph L. Kyner, a Board-certified internist and endocrinologist, noted appellant's family history of thyroid-related conditions. He obtained a history that her grandmother underwent surgical removal of goiter and her cousins sustained Hashimoto's thyroiditis. On examination, Dr. Kyner observed tenderness of a slightly-enlarged thyroid gland. Following a review of the January 19, 2006 sonogram and February 24, 2008 cytopathology report, he assessed multinodular thyroid gland secondary to chronic Hashimoto's autoimmune thyroiditis.

January 23 and December 18, 2007 sonograms obtained by Dr. Mathis showed stable, benign multinodular goiter.²

In February 19 and March 18, 2008 reports, Dr. John C. Ellis, a Board-certified otolaryngologist, related that appellant's sister was diagnosed with papillary thyroid cancer and that her uncle and aunt sustained malignant hyperthermia. On examination, he observed a nodule on the left inferior thyroid lobe. Diagnostic studies indicated that the mass doubled in size in one year. Dr. Ellis diagnosed nontoxic multinodular goiter, ruled out malignant thyroid neoplasm and recommended surgery.

On March 21, 2008 appellant underwent total thyroid lobectomy and cervical lymph node biopsy. Postoperative reports from April 1 to September 30, 2008 documented gradual recovery with no major complications.

OWCP informed appellant in a February 15, 2011 letter that additional evidence was needed to establish her claim. It gave her 30 days to submit a factual statement detailing her exposure to hazardous materials at work and a medical report from a physician explaining how employment factors caused or contributed to her thyroid condition. OWCP did not receive a response.

By decision dated March 24, 2011, OWCP denied appellant's claim, finding the evidence insufficient to demonstrate that she experienced the alleged occupational exposure.

² The case record contains digital images of Dr. Mathis' January 19, 2006; January 23, 2007 and December 18, 2007 sonograms.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of establishing the essential elements of her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation period, that an injury was sustained in the performance of duty as alleged and that any disabilities and/or specific conditions 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 upon a traumatic injury or an occupational disease.⁴

Whether an employee actually sustained an injury in the performance of duty begins with an analysis of whether fact of injury has been established.⁵ To establish fact of injury in an occupational disease claim, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁶

An employee's statement that an injury occurred at a given time and in a given manner is of great probative value and will stand unless refuted by strong or persuasive evidence.⁷ Moreover, an injury does not have to be confirmed by eyewitnesses. The employee's statement, however, must be consistent with the surrounding facts and circumstances and her subsequent course of action. An employee has not met her burden in establishing the occurrence of an injury when there are such inconsistencies in the evidence as to cast serious doubt upon the validity of the claim. Circumstances such as late notification of injury, lack of confirmation of injury, continuing to work without apparent difficulty following the alleged injury and failure to obtain medical treatment may, if otherwise unexplained, cast doubt on an employee's statement in determining whether a *prima facie* case has been established.⁸

ANALYSIS

In her original Form CA-2, appellant stated that she sustained multinodular goiter as a result of industrial exposure to a contaminated water supply and toxic vapor and gases. She thereafter furnished medical evidence, none of which identified this account as part of her health history. On February 15, 2011 OWCP informed appellant that additional factual evidence was needed to establish her occupational disease claim and gave her an opportunity to clarify the details of the alleged exposure, but did not subsequently receive a response.

³ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *See S.P.*, 59 ECAB 184, 188 (2007).

⁶ *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *R.R.*, Docket No. 08-2010 (issued April 3, 2009).

⁷ *Gregory J. Reser*, 57 ECAB 277 (2005); *R.T.*, Docket No. 08-408 (issued December 16, 2008).

⁸ *Betty J. Smith*, 54 ECAB 174 (2002).

The Board finds that appellant did not sufficiently establish that she was exposed to a contaminated water supply and toxic vapor and gases while in the performance of duty because her claim lacks specificity regarding the claimed mechanism of injury.⁹ Appellant made a general allegation on her Form CA-2 but did not submit any other evidence regarding the particular location and period of her exposure as well as the type of contaminants, toxins and vapors to which she was exposed. Therefore, her assertion must be considered vague and incomplete.¹⁰ In the absence of necessary factual evidence, appellant failed to establish a *prima facie* claim.¹¹

Appellant contends on appeal that contamination testing of her workplace performed by the Environmental Protection Agency confirmed occupational exposure to hazardous substances. However, she did not provide evidence to the record to support this contention.

Appellant may submit new evidence or argument as part of a formal written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant did not establish that she sustained an occupational disease in the performance of duty.

⁹ *Bonnie A. Contreras*, 57 ECAB 364, 367 (2006); *M.F.*, Docket No. 10-1514 (issued March 11, 2011).

¹⁰ *See Contreras, id.*

¹¹ *See O.W.*, Docket No. 09-2110 (issued April 22, 2010). As appellant did not meet her burden to establish occupational exposure, it is not necessary to consider the medical evidence with regards to causal relationship. *D.F.*, Docket No. 10-1774 (issued April 18, 2011).

ORDER

IT IS HEREBY ORDERED THAT the March 24, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 20, 2012
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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