

ISSUE

The issue is whether appellant met her burden of proof to establish an asthma attack in the performance of duty on June 8, 2016, as alleged.

FACTUAL HISTORY

On June 9, 2016 appellant, then a 57-year-old supply technician, filed a traumatic injury claim (Form CA-1) alleging that she had an asthma attack on June 8, 2016 due to wet carpet and possible mold at work. She stopped work on the date of injury.

In a medical referral form dated June 8, 2016, Dr. Laura C. Kellogg, a Board-certified family practitioner, noted that appellant could not breathe and she had a racing heart, the shakes, and a burning throat and eyes. She found that appellant had an allergic reaction/anaphylaxis to mold. Dr. Kellogg indicated by checking a box marked "yes" that her condition was occupational. She restricted appellant's activity until June 10, 2016 and advised that appellant could not return to work until the carpet was dry and disinfected. In an addendum dated June 8, 2016, Dr. Kellogg advised that, after speaking to appellant's supervisor for clarification, appellant could not work for 48 hours. She recommended that appellant report to occupational health on June 10, 2016 and, if cleared, then appellant could return to work on that date at a different office location.

By letter dated June 10, 2016, OWCP notified appellant of the deficiencies of her claim and afforded her 30 days to submit additional factual and medical evidence. It also requested that the employing establishment provide a list of potentially harmful substances to which appellant had been exposed, the tasks she performed which resulted in exposure, and exposure data. In addition, OWCP requested that it submit treatment notes if appellant was treated at an agency medical facility.

In response to OWCP's questions, the employing establishment noted that the entire office area was 5,120 square feet with 20 overhead air ducts, one of which was placed at the back of appellant's work area. Appellant's assigned cubicle was 18 feet away from where the water leakage had occurred. The air conditioner began leaking during the afternoon on June 3, 2016, which caused three ceiling tiles to fall. On June 6 and 7, 2016 appellant performed her regular assigned duties at her desk. During the morning of June 8, 2016, she requested permission to go to the medical unit. Appellant returned to work on June 14, 2016 for a follow-up medical appointment. She was relocated to another building by management until the carpet had dried and been cleaned as recommended by her physician. The employing establishment noted that fans were brought in to dry the carpet and doors remained open for fresh air to circulate in the building. It submitted a copy of appellant's supply technician position description and a Notification of Personnel Action (Form SF-50) for her position.

By decision dated July 20, 2016, OWCP denied appellant's traumatic injury claim. It found that the claimed work event did not occur as alleged. It noted that appellant had not responded to the questions provided in its June 10, 2016 development letter. OWCP further found that Dr. Kellogg did not provide a rationalized medical opinion explaining how the claimed employment factors or incident directly caused or contributed to the claimed injury.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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 FECA, that the claim was filed within 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.² 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.³

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place, and in the manner alleged. Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.⁴

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.⁵ 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 his or 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.⁶

The medical evidence required to establish a causal relationship is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the employee, 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 employee.⁷ Neither the fact that appellant's condition became apparent during a period of employment nor, her belief that the condition was caused by her employment is sufficient to establish a causal relationship.⁸

² *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *See Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999); *Elaine Pendleton, id.*

⁴ *T.H.*, 59 ECAB 388 (2008).

⁵ *R.T.*, Docket No. 08-408 (issued December 16, 2008); *Gregory J. Reser*, 57 ECAB 277 (2005).

⁶ *Betty J. Smith*, 54 ECAB 174 (2002).

⁷ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁸ *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

ANALYSIS

Appellant alleged that she had an asthma attack after being exposed to wet carpet and possible mold while in the performance of duty on June 8, 2016. OWCP found that she failed to establish the factual component of her claim. The Board finds that the evidence of record establishes that appellant was exposed to wet carpet at work on June 8, 2016, as alleged.

In her claim form, appellant identified her exposure to the wet carpet and possible mold as the cause of her asthma attack. The employing establishment acknowledged that water had leaked onto the carpet located 18 feet away from appellant's cubicle when three ceiling tiles fell as a result of an air conditioner leak on June 3, 2016. It noted that she was at work on June 8, 2016, the date she claimed she was exposed to wet carpet and possible mold, and that the carpet continued to be wet when she returned to work on June 14, 2016 as she was relocated to another building by management based on her physician's recommendation until the carpet was dried and cleaned. The employing establishment related that fans were used to dry the carpet and doors were left open to allow fresh air to circulate in the building.

The Board finds that appellant's statement is consistent with the surrounding facts and circumstances in that she filed her claim the following day after the employment incident, that she sought medical treatment on the same date as the employment incident, and that the employing establishment acknowledged the occurrence of the work incident. Accordingly, appellant has established that she was exposed to wet carpet on June 8, 2016.⁹

The Board further finds, however, that the medical evidence of record is insufficient to establish that appellant sustained a medical condition causally related to the established June 8, 2016 exposure. Dr. Kellogg's June 8, 2016 medical referral form reported appellant's symptoms and diagnosed allergic reaction/anaphylaxis to mold. She indicated by checking a box marked "yes" that her condition was occupational and advised that appellant was unable to work through June 10, 2016. Dr. Kellogg's opinion is generally supportive of causal relationship, but is of diminished probative weight because she did not support her opinion with sound medical reasoning and there was no evidence of mold exposure. The Board has held that a checkmark in response to a form question on causal relationship is insufficient, without medical rationale, to establish causal relationship.¹⁰ Dr. Kellogg did not explain how the established exposure caused or aggravated appellant's asthma condition. Further, she did not provide a clear history of injury as there was no mold exposure established,¹¹ or identify any examination findings to support her opinion on causal relationship. While Dr. Kellogg's remaining June 8, 2016 addendum note restated that appellant was unable to work for 48 hours, she did not state that her disability was caused by the accepted exposure.¹²

⁹ See *G.W.*, Docket No. 13-1943 (issued July 29, 2014).

¹⁰ *B.M.*, Docket No. 15-1233 (issued October 1, 2015).

¹¹ *Frank Luis Rembisz*, 52 ECAB 147 (2000) (medical opinions based on an incomplete history have little probative value).

¹² *A.D.*, 58 ECAB 159 (2006) (medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

The Board finds that appellant has failed to submit any rationalized probative medical evidence to establish that she had an asthma attack causally related to the June 8, 2016 employment incident. Appellant did not meet her burden of proof.

Appellant may submit new evidence or argument with a 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 has failed to meet her burden of proof to establish an asthma attack causally related to a June 8, 2016 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the July 20, 2016 decision of the Office of Workers' Compensation Programs is affirmed as modified.

Issued: February 6, 2017
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board