

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

C.R., Appellant)

and)

DEPARTMENT OF THE NAVY, NAVAL)
RESEARCH LABRATORY, Washington, DC,)
Employer)

**Docket No. 16-1849
Issued: September 26, 2017**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
COLLEEN DUFFY KIKO, Judge

JURISDICTION

On September 19, 2016 appellant filed a timely appeal from a May 3, 2016 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 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 his burden of proof to establish an occupational disease claim causally related to factors of his federal employment.

FACTUAL HISTORY

On January 26, 2016 appellant, a 38-year-old electrical engineer, filed an occupational disease claim (Form CA-2) alleging that he developed a respiratory condition due to exposure to

¹ 5 U.S.C. § 8101 *et seq.*

mold in the workplace. He stated that his office experienced severe flooding in 2015 and significant mold and mildew were found growing in his office. Appellant claimed that he developed symptoms of hoarseness, persistent coughing, sore throat, and occasional loss of voice as a result. He submitted a photograph of the mold and stated that at his annual physical examination, his general practitioner indicated that his complaints were not symptoms of a cold and that a pulmonologist later confirmed that the condition was related to mold exposure. Appellant indicated that he first became aware of his condition on August 5, 2015 and related it to his federal employment on January 8, 2016. He did not stop work.

In a March 22, 2016 letter, OWCP advised appellant of the deficiencies of his claim and afforded him 30 days to submit additional evidence and respond to its inquiries.

Appellant submitted a narrative statement reiterating the factual history of his claim (rd 4-14-16) and a February 17, 2016 report from Aerosol Monitoring & Analysis, Inc. confirming the existence of mold in the workplace.

In an April 12, 2016 e-mail message B.D., appellant's supervisor, wrote that he concurred with appellant's claims about the events that transpired relating to mold problems in his office and the dates of flooding. He further indicated that appellant was exposed continuously while at work until such time that the mold was discovered.

Dr. Depak Soni, a pulmonologist, examined appellant on April 8, 2016 and diagnosed cough, wheezing, reactive airway disease, and posterior rhinorrhea. He indicated that appellant's current symptoms were due to exposure to mold in the workplace. Dr. Soni explained that mold exposure was a well-known trigger for wheezing and reactive airway disease.

By decision dated May 3, 2016, OWCP found that the medical evidence of record was insufficient to establish causal relationship between appellant's diagnosed conditions and factors of his federal employment.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of proof to establish 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 timely filed within the applicable time limitation period of FECA, and that an injury³ was sustained in the performance of duty. These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

To establish that an injury was sustained in the performance of duty in a claim for an occupational disease, an employee must submit the following: (1) a factual statement identifying

² *Id.*

³ OWCP's regulations define an occupational disease or illness as a condition produced by the work environment over a period longer than a single workday or shift. 20 C.F.R. § 10.5(q).

⁴ *See O.W.*, Docket No. 09-2110 (issued April 22, 2010); *Ellen L. Noble*, 55 ECAB 530 (2004).

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.⁵

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical 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.⁶

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish respiratory conditions in the performance of duty. Appellant submitted a statement in which he identified the factors of employment that he believed caused the condition, including exposure to mold and mildew, which OWCP accepted as factual. However, in order to establish a claim that he sustained an employment-related injury, he must also submit rationalized medical evidence which explains how his medical conditions were either caused or aggravated by the implicated employment factors.⁷ The medical evidence appellant submitted fails to establish that federal employment factors caused or aggravated his respiratory conditions.

In his report, Dr. Soni diagnosed a cough, wheezing, reactive airway disease, and posterior rhinorrhea and opined that appellant's conditions were due to exposure to mold in the workplace. He noted that mold exposure is a well-known trigger for wheezing and reactive airway disease. However, Dr. Soni failed to provide a rationalized opinion explaining how factors of appellant's federal employment, such as exposure to mold and mildew, caused or aggravated his respiratory conditions. He noted that appellant's conditions occurred while he was at work, but such generalized statements do not establish causal relationship because they merely repeat appellant's allegations and are unsupported by adequate medical rationale explaining how his physical activity at work actually caused or aggravated the diagnosed conditions.⁸ The Board has held that the mere fact that appellant's symptoms arose during a period of employment or produce symptoms revelatory of an underlying condition does not establish a causal relationship between appellant's conditions and his employment factors.⁹ Lacking thorough medical rationale on the issue of causal relationship, the Board finds that

⁵ See *D.R.*, Docket No. 09-1723 (issued May 20, 2010). See also *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁶ See *O.W.*, *supra* note 3.

⁷ See *A.C.*, Docket No. 08-1453 (issued November 18, 2008).

⁸ See *K.W.*, Docket No. 10-0098 (issued September 10, 2010).

⁹ See *Richard B. Cissel*, 32 ECAB 1910, 1917 (1981); *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

Dr. Soni's report is insufficient to establish that appellant sustained an employment-related injury.¹⁰

As appellant has not submitted rationalized medical evidence sufficient to establish that he sustained an injury causally related to the accepted employment factors, he failed to meet his burden of proof to establish a claim.

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 not met his burden of proof to establish that he developed respiratory conditions causally related to factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the May 3, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 26, 2017
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

¹⁰ See *E.V.*, Docket No. 15-1759 (issued January 8, 2016) (where the Board found that the employee was exposed to black mold at her workplace, but failed to submit sufficient medical evidence to establish that her diagnosed pneumonia condition was causally related to her exposure to mold at work).