

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JAMES C. RILEY and DEPARTMENT OF ENERGY,
TRANSPORTATION SAFEGUARDS DIVISION, Albuquerque, NM

*Docket No. 98-2127; Submitted on the Record;
Issued February 14, 2000*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant met his burden to establish that his current asthmatic condition or disability was caused or aggravated by his accepted August 30, 1995 employment injury.

On August 30, 1995 appellant, a 46-year-old nuclear materials courier, experienced difficulty breathing when he was exposed to nitric acid vapors at his plant. He filed a claim for benefits on August 30, 1995, which the Office of Workers' Compensation Programs accepted for aggravation of asthma by letter dated September 18, 1996.

In a report dated October 25, 1996, Dr. Daniel R. Smith, a specialist in general preventive medicine, noted appellant's history of toxic exposure to nitric oxide fumes at the employing establishment and diagnosed an exercise-induced asthma. He indicated that appellant's clinical history suggested the condition was initiated by his exposure to toxic fumes.

On January 7, 1998 appellant filed a Form CA-2 claim for benefits, alleging that he sustained a recurrence of disability which was caused or aggravated by his August 30, 1995 exposure to noxious fumes.

Appellant submitted additional medical reports from Dr. Smith dated December 1 and December 13, 1995; February 9, April 1 and October 25, 1996; and March 21, April 15, August 13 and October 24, 1997. In these reports, he reported findings on examination and essentially reiterated his earlier findings and conclusions. In Dr. Smith's December 1, 1995 report, he related that appellant clinically described a well-defined onset of symptoms temporarily associated with an exposure of respiratory irritants.

By decision dated April 9, 1998, the Office denied appellant's claim for a recurrence of disability, finding that he failed to submit medical evidence sufficient to establish that his current pulmonary condition was caused or aggravated by the August 30, 1995 employment injury.

By letter dated April 27, 1998, appellant requested reconsideration. In support of his claim, appellant submitted an April 14, 1998 medical report from Dr. R. Hal Hughes, a resident physician. He indicated that appellant's asthma was an underlying condition which "seemed to be most compatible with exercise-induced asthma." Dr. Hughes further indicated that it "seems certainly reasonable" that appellant's current asthmatic symptoms were causally related to his exposure to nitric acid. He advised that, based on his symptoms of dyspnea, chest tightness and wheezing while not taking medication and based on the diagnostic tests of record, appellant probably had a mild impairment which was causally related to his nitric acid exposure.

By decision dated May 27, 1998, the Office denied appellant's claim for reconsideration, finding that appellant failed to submit evidence sufficient to warrant modification of its April 9, 1998 decision.

The Board finds that appellant has not established that his current asthmatic condition or disability was caused or aggravated by the August 12, 1996 employment injury.

An individual who claims a recurrence of disability resulting from an accepted employment injury has the burden of establishing that the disability is related to the accepted injury. This burden requires furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury and who supports that conclusion with sound medical reasoning.¹

The record contains no such medical opinion. Appellant has failed to submit any medical opinion containing a rationalized, probative report which relates his current condition or disability to his August 30, 1995 employment injury. For this reason, he has not discharged his burden of proof to establish his claim that he sustained a recurrence of disability as a result of his accepted employment injury.

The only medical evidence appellant submitted in support of his claim for a recurrence of disability were the periodic progress reports from Dr. Smith and Dr. Hughes' April 14, 1998 report. Dr. Smith's reports indicated that appellant experienced intermittent asthmatic symptoms during exercise and noted some objective findings, but did not contain a probative, rationalized medical opinion sufficient to establish that appellant's current condition or disability was caused or aggravated by his August 30, 1995 employment injury.

Further, Dr. Hughes' April 14, 1997 report does not constitute sufficient medical evidence demonstrating a causal connection between appellant's August 30, 1995 injury and his current asthmatic condition or disability. Causal relationship must be established by rationalized medical opinion evidence. His report merely asserts in summary fashion that his current asthmatic condition could have been causally related to the August 30, 1995 injury employment injury and that his conditions were caused by his injury. Dr. Hughes' opinion on causal relationship is of limited probative value in that he did not provide adequate medical rationale in

¹ *Dennis E. Twardzik*, 34 ECAB 536 (1983); *Max Grossman*, 8 ECAB 508 (1956); 20 C.F.R. § 10.121(a).

support of his conclusions.² Moreover, his opinion is of limited probative value for the further reason that it is generalized in nature and equivocal in that he only noted summarily that appellant's condition was causally related to appellant's August 30, 1995 exposure to toxic fumes.

The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.³ Neither the fact that the condition became apparent during a period of employment nor the belief that the condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁴ Causal relationship must be substantiated by reasoned medical opinion evidence which is appellant's responsibility to submit. In the instant case, none of the medical reports pertaining to the claimed condition contain any rationalized medical opinion which relates the cause of the claimed condition to the August 30, 1995 employment injury.

As there is no medical evidence addressing and explaining why the claimed condition and disability was caused or aggravated by his August 30, 1995 employment injury, appellant has not met his burden of proof in establishing that he sustained a recurrence of disability.

² *William C. Thomas*, 45 ECAB 591 (1994).

³ *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

⁴ *Id.*

The May 27 and April 9, 1998 decisions of the Office of Workers' Compensation Programs are therefore affirmed.

Dated, Washington, D.C.
February 14, 2000

George E. Rivers
Member

David S. Gerson
Member

Michael E. Groom
Alternate Member