U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GAIL N. JOHNSON and DEPARTMENT OF THE ARMY, CORPS OF ENGINEERS, Washington, D.C.

Docket No. 99-697; Submitted on the Record;
Issued March 9, 2001

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT, PRISCILLA ANNE SCHWAB

The issue is whether appellant has established that she sustained allergic reactions and aggravation of her asthma causally related to factors of her employment.

On May 1, 1995 appellant, then a 29-year-old secretary, filed an occupational injury claim alleging that on March 3, 1984 she first realized that her allergies and asthma were aggravated by chemicals, fumes and cigarette smoke in her employment.[1] She stopped work on August 24, 1995 and was approved for disability retirement effective November 30, 1995.

By decision dated August 19, 1996, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the evidence was insufficient to establish that her condition was causally related to factors of her employment.

In a letter dated September 5, 1996, appellant requested an oral hearing which was held on February 5, 1997.

In a report dated February 3, 1997, Dr. Constance Hume-Rodman, an attending physician, opined that appellant's "1993 gas fume exposure radically sensitized [appellant] to all sorts of chemical fumes."

In a July 22, 1997 decision, a hearing representative affirmed the Office's August 19, 1996 decision, finding that appellant's asthma and allergies had not been aggravated by employment factors.

Appellant requested reconsideration by letter dated July 17, 1998 and submitted a May 28, 1998 report from Dr. John M. Balbus, a Board-certified internist, who noted that since

---

[1] This was assigned claim number A25-477004. Appellant has filed 16 claims relating to exposure to various substances which caused allergic reactions.

January 8, 1993 appellant "has experienced heightened reactivity to airborne irritants." He attributed appellant's reaction to methyl ethyl ketone, which was listed as an ingredient in the PVC primer used during renovations at the employing establishment.

By merit decision dated September 11, 1998, the Office denied appellant's request on the grounds that the evidence was insufficient to warrant modification.

The Board finds that this case is not in posture for decision.

An employee seeking benefits under the Federal Employees' Compensation Act[2] 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 the Act, that an injury was sustained in the performance of the duty alleged and/or specific condition for which compensation is claimed is 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]

To establish that an injury was sustained in the performance of duty in an occupational disease claim, appellant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is alleged; (2) a factual statement identifying 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 employment factors identified by appellant were the proximate cause of the condition for which compensation is claimed or stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by appellant.[5] The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.[6]

Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between appellant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of appellant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the

[2] 5 U.S.C. §§ 8101-8193.

[3] *Louise F. Garnett*, 47 ECAB 639, 643 (1996); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

[4] The Office's regulations clarify that a traumatic injury refers to an injury caused by a specific event or incident or series of events or incidents occurring within a single workday or work shift whereas occupational disease refers to injury produced by employment factors which occur or are present over a period longer than a single workday or shift; *see* 20 C.F.R. § 10.5(a)(15), (16).

[5] *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[6] *Ern Reynolds*, 45 ECAB 690 (1994).

relationship between the diagnosed condition and the specific employment factors identified by appellant.[7]

In this case, Dr. Hume-Rodman opined that appellant became sensitized to all sorts of chemical fumes after the 1993 gas fume exposure, but failed to explain the physiologic process of chemical sensitization from occupational exposures over a defined period of time. She generally conveyed that, once sensitized, appellant would remain that way, but did not explain how any future contact with the specific allergens would definitely cause exacerbation of sensitization symptomatology, *i.e.*, severe asthmatic reaction, which would preclude appellant from any further occupational exposure to the allergens. In addition, Dr. Balbus concluded that appellant had a "heightened reactivity to airborne irritants" which he attributed to methyl ethyl ketone, an ingredient listed in the PVC primer used during renovations at the employing establishment.

Proceedings under the Act are not adversary in nature, nor is the Office a disinterested arbiter. While the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence to see that justice is done.[8] This holds true in recurrence of disability claims as well as in initial traumatic and occupational injury claims.

Although none of appellant's treating physicians provided rationale sufficient to meet appellant's burden of proving by the weight of reliable, substantial and probative evidence that she was unable to work as of November 30, 1995 due to her occupational condition, their reports constitute substantial, uncontradicted evidence in support of appellant's claim and raise an uncontroverted inference of causal relationship between her inability to work regular duty as of November 30, 1995 and her occupational exposures after 1989, particularly the January 1993 gas fume exposure. Therefore, these reports are sufficient to require further development of the case record by the Office.[9]

[7] *Solomon Polen*, 51 ECAB ____ (Docket No. 97-1794, issued March 1, 2000); *Kathy Marshall*, 45 ECAB 827, 832 (1994).

[8] *William J. Cantrell*, 34 ECAB 1223 (1983).

[9] *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).

The decision of the Office of Workers' Compensation Programs dated September 11, 1998 is hereby set aside and the case is remanded for further development in accordance with this decision.

Dated, Washington, DC
March 9, 2001

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member