

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F300238

VADA LINDSEY, EMPLOYEE	CLAIMANT
FOREMAN SCHOOL DISTRICT, EMPLOYER	RESPONDENT
ARKANSAS SCHOOL BOARDS ASSOC WCT, INSURANCE CARRIER	RESPONDENT

**OPINION FILED MAY 27, 2004**

Hearing conducted before Administrative Law Judge C. MICHAEL WHITE in Hope, Hempstead County, Arkansas.

The claimant was represented by GREGORY R. GILES, Attorney at Law, Texarkana, Arkansas.

The respondents were represented by BETTY J. DEMORY, Attorney at Law, Little Rock, Arkansas.

**OPINION AND ORDER**

A hearing was held in this matter on February 6, 2004. A prehearing conference was conducted on October 14, 2003, and a prehearing order was filed on October 14, 2003. A copy of the prehearing order has been marked as Commission Exhibit No. 1 and made a part of the record without objection.

During the prehearing conference, the parties agreed to the following stipulations:

1. The employee/employer/carrier relationship existed at all relevant times.
2. The claimant was earning sufficient wages to entitle her to a temporary disability compensation rate of \$160.00
3. The respondents have controverted this claim in its entirety.

During the prehearing conference, the parties also agreed that the issues to be litigated at the hearing were limited to the following:

1. Whether the claimant sustained an injury that is compensable under the Arkansas Workers' Compensation Law.
2. Whether the claimant is entitled to temporary total disability compensation for the period extending from September 18, 2002 through April 2, 2003.
3. Whether the claimant is entitled to medical benefits.

From a review of the record as a whole, to include the testimony of the claimant, Vada Lindsey, Robert Easter, Fern Green and Brenda Young, as well as the medical records and other documentary evidence, the following findings of fact and conclusions of law are made in accordance with Ark. Code Ann. § 11-9-704 (Cumm. Supp. 1997):

#### **FINDINGS AND CONCLUSIONS**

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. The stipulations agreed to by the parties and set forth above are hereby accepted as fact.
3. The respondents controverted this claim in its entirety.
4. The claimant failed to prove by a preponderance the evidence elements necessary to establish a compensable injury, or occupational disease under the Arkansas Workers' Compensation Law.

**DISCUSSION**

The claimant began working for the respondent/employer as a custodian on September 17, 2000. During the school year her duties include cleaning, mopping, and sweeping as well as cleaning the restrooms. During the summer her duties involved stripping the wax off the floors and reapplying new wax to the floors. According to the claimant's testimony the claimant's health was good when she began working for the school district. In this regard she testified that she was taking medication for anxiety and stress. However, she testified that she had never been treated for asthma, shortness of breath or any other breathing problems; however, in September of 2002 the claimant filed a claim contending that she was experiencing difficulty in breathing, coughing and shortness of breath that she attributed to the inhalation of chemicals used in her employment. Although she had worked with chemicals throughout the course of her employment with the respondent/employer, there was a change in the chemical that was used to strip floors, and the claimant testified that this chemical "just smelled real strong." The claimant saw Dr. Kevin Kleinschmidt, who had treated her for other problems. Dr. Kleinschmidt's June 17, 2002 report indicates that the claimant saw him with complaints of coughing, sneezing, and chest congestion and his report also indicates that the claimant advised him that she had been exposed to some

chemicals for stripping floors at work. Dr. Kleinschmidt saw the claimant again on August 14, 2002 for various complaints, including elevated blood pressure, congestion, dizziness, coughs, and sinus drainage. On September 18, 2002 Dr. Kleinschmidt advised the claimant to avoid chemicals if possible. On September 19, 2002 Dr. Kleinschmidt hospitalized the claimant for complaints of chest pain that radiated into her back, pain in her feet and legs, nausea, and stress. In addition to evaluating the claimant's complaints of chest pain, Dr. Kleinschmidt also evaluated the claimant's respiratory condition and diagnosed "possibl[e] mild chemical bronchitis from exposure to cleaning solutions." The claimant was discharged from the hospital on September 24, 2002 with a final diagnosis of acute exacerbation of asthma, pleurisy, panic attacks with chronic underlying anxiety and depression, neurotic depression, migraine headaches, myalgia, hypercholesterolemia, allergic rhinitis, and surgical menopause on hormone replacement therapy. Notably it was not until after this hospitalization that Dr. Kleinschmidt notes that the claimant had stopped smoking. Dr. Kleinschmidt ultimately referred the claimant to Dr. Christopher Bailey, a pulmonary specialist, who first saw the claimant on November 15, 2002. Dr. Bailey concluded that pulmonary function tests were normal and that there were no abnormalities on radiographic studies. He diagnosed probable bronchiectasis. On November 22, 2002 he conducted a

bronchoscopy which revealed hemoptysis with bilateral lower lobe bronchiectasis and obstructive sleep apnea syndrome with acute chronic bronchitis also a secondary finding that is unrelated to this workers' compensation claim. On December 16, 2002 Dr. Kleinschmidt released the claimant to return to work. The claimant began complaining of difficulty swallowing and she was referred to Dr. John Cozart for a gastroscopic evaluation. In a narrative statement dated March 5, 2003, Dr. Kleinschmidt indicates that the claimant experienced an exacerbation of her problems whenever she returned to work and was exposed to chemicals. He also opined that the claimant's extreme coughing, coughing fits, wheezing, and bronchitis appear to be related to her exposure to cleaning chemicals at her place of employment. I note that Dr. Kleinschmidt had previously treated the claimant for numerous complaints, including complaints of chest pain, beginning as early as February 15, 2001. Medical reports indicate that the claimant was suffering from multiple social stressors, including problems with an adolescent daughter and a multitude of financial problems, in addition claimant's husband had recently passed away. In the present claim, after carefully and impartially reviewing all of the evidence found in the record, I find that the claimant failed to prove by a preponderance of the evidence that her respiratory problems are causally related to her employment. Although the

claimant testified that she was not experiencing any problems when she began working for the respondent/employer, she did begin complaining of many non-specific physical complaints soon after her employment with the respondent/employer began. Moreover, her medical care providers have suggested that her multiple non-specific symptoms may actually be related to the considerable stress which the claimant was under. Furthermore, no evidence of the nature and type of chemical used by the claimant, nor the ability of that chemical to cause the symptoms complained of by the claimant was introduced into the record. Accordingly, after weighing all of the evidence carefully, I find that the claimant failed to prove by a preponderance the elements necessary to establish a compensable injury or occupational disease under the Arkansas Workers' Compensation Law.

**ORDER**

Accordingly, based on my review of the entire record and for the reasons discussed herein, I find that this claim must be, and hereby is, denied and dismissed.

IT IS SO ORDERED.

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HON. C. MICHAEL WHITE  
Administrative Law Judge