

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F508008

AURORA CORTEZ, EMPLOYEE	CLAIMANT
PHARMERICA, EMPLOYER	RESPONDENT
HARTFORD INS. CO. OF THE MIDWEST, CARRIER	RESPONDENT

OPINION FILED NOVEMBER 30, 2007

Upon review before the FULL COMMISSION, Little Rock,
Pulaski County, Arkansas.

Claimant represented by the HONORABLE EVELYN BROOKS,
Attorney at Law, Fayetteville, Arkansas.

Respondent represented by the HONORABLE MICHAEL E.
RYBURN, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Reversed.

OPINION AND ORDER

This case comes before the Commission on the claimant's appeal of the December 29, 2006, opinion of the Administrative Law Judge, which found that the claimant did not sustain a compensable injury. The Administrative Law Judge found that the claimant did not have objective signs of an injury. However, the claimant did have objective findings related to her carbon monoxide exposure in the form of swelling of the

pharynx, pneumonia as confirmed by x-ray, an abnormal spirometry reading, mucosal thickening in the posterior aspect of the sphenoid air cells, red and edematous nasal mucosa, and seizures witnessed by medical personnel. Accordingly, after a de novo review of the record, we reverse the decision of the Administrative Law Judge.

The claimant testified that she began working for the respondent-employer in July 2004. The claimant testified that she was deaf in one ear before the incident in question, but was otherwise healthy. The claimant further indicated that prior to the incident she was on no medication. The claimant testified that she did not suffer from any health deficiencies until after the date of June 8, 2005.

The claimant indicated that on June 8, 2005, there was a large puddle of water. At that point the claimant began feeling sick. The claimant also began noticing that her other coworkers appeared to be ill. The claimant also noted that she and the other workers were not thinking properly. She indicated, "But, you know - - I don't know, we were just like - - like we were dumb." The claimant testified that after the

incident, she suffered from headaches, back aches, and sleepiness. She also said she now suffers from being "slow", and that she cannot read or write. The claimant said she had attempted to return to work and been unsuccessful because she could not concentrate and had memory loss. Additionally, she now suffers from seizures.

The claimant said that she had not worked since April, which is the time when she first began having seizures. The claimant said she suffered from at least one seizure a day. In fact, during the hearing, the paramedics apparently had to be called due to the claimant having a seizure like episode. The claimant said that she was taking Topamax for headaches and seizures, Phenobarb for seizures, Nadolol and an antidepressant.

The medical records corroborate the claimant's testimony. On June 8, 2005, the claimant presented to the emergency room with symptoms of nausea, sore throat, congestion, burning eyes, nausea, shakiness, and headache. She reported that she had no history with these symptoms and that she was not on medication. The claimant reported that she had been exposed to mold due

to a water leak at work. The claimant was diagnosed with an allergic reaction to mold and instructed not to return to work until cleanup had been completed. The claimant was also instructed to take Benadryl or Claritin and Tylenol or Motrin for her symptoms.

On June 9, 2005, the claimant was treated, at the respondent's request, by Dr. Berestnev. Dr. Berestnev noted that the claimant continued to remain symptomatic. He indicated that the claimant's spirometry and chest x-rays were normal. He released the claimant to return to work. He further recommended the claimant's workplace be inspected and cleaned. Likewise on June 17, 2004, the claimant was seen by Dr. Moffitt, who treated the claimant for an abscessed tooth. Dr. Moffitt noted the claimant also suffered from a headache but was otherwise asymptomatic with regard to her work accident. Dr. Moffitt indicated that, "I think it is reasonable for her not to be seen any longer unless something else occurs."

On June 20, 2005, the claimant was treated and was noted to be suffering from a headache, sore throat, and upper back pain. The report indicates, "HEENT: Oropharynx-Abn **noted** with -. -Posterior _Pharynx **noted** -

. - Erythema -Pharynx-**noted.** - Swelling -Pharynx **noted.**"

At some time in June the claimant was diagnosed with pneumonia. Her x-rays revealed, "mild aveolar infiltrates bilaterally".

The claimant was treated on June 22, 2005, by Dr. Petty. Dr. Petty noted the claimant suffered from sinus congestion, pressure, headache, post nasal drip, and generalized fatigue. Dr. Petty noted the claimant's symptoms had started three weeks before and that they were worsening. The claimant was assessed with sinusitis, headache, rhinitis, and dyspnea. The claimant was also noted to have an abnormal spirometry reading.

The claimant returned to the doctor on June 27, 2005, and presented with neck pain and stiffness and a headache. She also reported fatigue, nasal stuffiness, and a sore throat. On June 29, 2005, the claimant was referred for an arterial blood gases lab draw. She was assessed with carbon monoxide exposure and a headache. The claimant's test returned as normal, but she continued to receive care for her symptoms.

John Minden, a professional engineer, performed a Mechanical Inspection Report dated June 29,

2005:

On Monday June 27th two HVAC systems and a water heater were inspected at the PharMerica facility. The building is located at 412 North 2nd Street, Rogers Arkansas. The inspection was performed by me and Brian Eoff (an Arkansas licensed mechanical contractor).

The purpose of the inspection was to access (sic) the condition of the HVAC (heating ventilation and air conditioning) systems and their involvement with water damage reported within the facility. . . .
Mechanical room discussion:

The system appears to be a typical HVAC split system common in light commercial buildings. It consists of a natural gas furnace/coil assembly sitting atop a plywood/gypsum board plenum. Return ductwork comes down from the ceiling and is attached to the top of the plenum. The furnace/coil sits atop the plywood plenum and it draws air from the plenum to be discharged upward through the supply ductwork directed back into the ceiling to the distribution ductwork.

Installed next to the air handler, also on top of the plenum, is a natural gas fired water heater. An electric air compressor is located on the floor. There is visible water damage (stain & warpage) to the plywood plenum top. New appearing gypsum board covers the front of the plenum (it was reported to have been recently replaced). There was a dark line of stain along the plenum top to the wall interface behind the

water heater. The gypsum board wall covering behind the water heater showed signs of water saturation sufficient to loosen (bubble) the wall paint for a level 6" above the plywood plenum top. . . .

The water heater in the mechanical room is a natural gas fired, natural draft exhaust unit. It was reported to me that the water heater (or water heater accessory) had been leaking water and recently been repaired. There were signs of water damage beneath and behind the water heater. . . .

A functional test of the water heater caused an immediate odor of combustion gas fumes in the Mechanical room. . . . Later tests confirmed combustion gases were being discharged in the Mechanical room probably from this location. . . .

Conclusions:

1. Water damage and removal/repair of water damaged materials was readily apparent in and around the Mechanical room plenum. The water heater and the AHU coil condensate drain are both potential sources for this damage. (The water heater was reported to have been recently fixed after a "prolonged" leak (of an accessory tank). Contractor records/invoices or occupant records would be required to verify this information.

2. The AHU coil condensate drainage pipe was effectively plugged. It is probable that during continuous air conditioner operation the drainage

pipe would fill up and overflow the condensate pan. (No secondary overflow shut-off switches were present on either HVAC unit that we inspected that day).

3. The natural gas fired water heater has a significant flue gas leakage problem. CO was measured in concentrations up to 267 PPM (parts per million) in the Mechanical room.

4. The Mechanical room plenum (negative pressure portion of HVAC system) is not sealed airtight and the coil to furnace interface (positive pressure portion of HVAC system) has leakage (into the Mechanical room). Simultaneous operation of the Mechanical room air conditioner and water heater will cause water heater flue gases to be drawn into the plenum and discharged into the pharmacy space.

5. No Outside Air (OSA) inlets are present in either of the two HVAC systems inspected. . . .

Mr. Minden's recommendations included repairing or replacing the existing water heater and installing proper outside air ducts in order to obtain fresh air ventilation. The record indicates that the claimant began treating with Dr. Nancy Jones on or about July 5, 2005, for complaints of allergic rhinitis/congestion and eustachian dysfunction.

On July 13, 2005, Dr. Whiteside, an allergy and immunology physician. Dr. Whiteside indicated that

he had evaluated five employees for allergies. The patients were given a pulmonary evaluation, which included a spirometry. Dr. Whiteside indicated that research showed that there was no way that a person could inhale enough mold spores to cause a toxic reaction. However, it would be possible to have such symptoms from contaminated food. Dr. Whiteside further indicated,

Enclosed you will find the results of our evaluation on the six employees to determine if they have significant allergies. As requested, we also performed a pulmonary evaluation that included spirometry (pulmonary functioning) on each one of them. We have made every attempt to determine if any of these employee's symptoms could have been caused by being exposed to mold in the workplace. It appears with the available research we have at this time, there is no way a patient could inhale enough mold spores to cause a toxic reaction to mold that might be found in the home or workplace. However, it is possible to eat enough food contaminated with mold to have a toxic reaction following that ingestion.

If any of these employees have a significant allergy, especially to mold, they could have an increased difficulty with their allergies after exposure to increased mold spores. We found significant allergies in three of the six employees. They are Brian K. Smith,

Mary A. Doss, and Daniel D. McMillion. They are all allergic to mold but that is not their primary allergen. Even if they did have mold in the workplace and were exposed to a significant amount, it would be highly unlikely that their difficulty now is related to that exposure.

As mentioned before, we did a spirometry on each employee and they were all normal except for Mary A. Doss and Aurora Cortez. Ms. Cortez has what appears to be a mild restrictive ventilatory defect and I am of the opinion this is just an incidental finding. Ms. Doss has a mild degree of small airway disease, but I am of the opinion that this is due to inhalant allergens and I do not believe there is any connection to her exposure in the workplace. Ms. Cortez and Ms. Doss should probably be followed yearly with a spirometry performed on each visit to determine if there is any significant changes in their spirometry.

It appears to me that the difficulty these employees are having with their headaches and other symptoms would have to be due to another etiology other than an allergy (IgE mediated disease). I was a Flight Surgeon in the Air National Guard and Air Force for a total of twenty years and it appears to me the difficulty they are experiencing is probably due to exposure to carbon monoxide and/or nitrogen dioxide.

On July 15, 2006, the claimant was treated by Dr. Moffitt. Dr. Moffitt indicated that the claimant's

symptoms were worsening. He further indicated that because there was some evidence that there had been carbon monoxide in the building, he wanted the claimant to undergo a carboxyhemoglobin. He opined that since it had been over a month since the claimant's exposure, it was unlikely that there would remain any significant abnormality. The test was performed on July 15, 2005, and indicated the claimant had a blood level of 1.4%. The cut off for a normal level was 1.9%.

On July 20, 2005, Dr. Rutherford treated the claimant and noted that she suffered from confusion, fatigue, irritability, lack of concentration, insomnia, restlessness, headache, memory loss, burning sensation, tremors, photosensitivity, blurred vision, and nausea and vomiting. Dr. Rutherford indicated,

Ms. Cortez's examination demonstrates diminished auditory acuity right ear which on directed questioning is probably of long standing and incoordination of the left arm. The later warrants further investigation which will comprise contrast enhanced MRI study of the brain.

The claimant's MRI report indicated, "Normal MRI of the brain. Mild mucosal thickening in the posterior aspect of the sphenoid air cells incidentally noted." On July

22, 2005, Dr. Rutherford indicated the claimant's MRI had returned as normal and that she appeared to have "no significant cognitive dysfunction". He prescribed Nortriptyline for the claimant's headaches and indicated that she did not need neuropsychological testing.

The claimant returned to Dr. Rutherford on August 18, 2005, and reported that she was unsure whether the Nortriptyline was helping her headaches. The claimant also reported that she was crying frequently. Dr. Rutherford indicated this was likely due to stress in the workplace and added Lexapro to the claimant's medication regiment.

The claimant's symptoms did not subside and on August 31, 2005, the claimant was referred to a neurologist. The claimant continued to deteriorate and she reported increasing problems with confusion and alertness. The claimant was noted to have sinus problems and vitamin B deficiency. She was also treated for pneumonia. She also reported increased episodes of tremors and shakiness. On October 11, 2005, the claimant was diagnosed as suffering from,

Assessment:

Headache, NOS #784.0.

urge incontinence

Tremor (shakiness) #781.0.

Organic brain syndrome, chronic (memory disturbance, confusion) #294.9.
Constipation #564.00
66.2 Other B-complex deficiencies.

On January 9, 2006, the claimant was treated and complained of shortness of breath, pain in her back, and fatigue. The claimant was noted to have, "Nasal mucosa red and edematous." She was also diagnosed with pneumonia, dyspnea on exertion, and b12 deficiency. On January 30, 2006, the claimant indicated that the claimant had been cleaning her oven with Clorox and that she had a little irritation, but did not have trouble breathing. The claimant was diagnosed with anxiety syndrome, sweaty palms b12 deficiency and constipation.

On April 1, 2006, the claimant was treated at the emergency room after having a seizure. Under a section entitled "Assessment" the report indicates, "groggy, somewhat confused. Witnessed seizure X 2-3 minutes." The claimant reported she had no history of having seizures. The claimant's lower lip was noted to be swollen. An MRI was conducted and returned as normal.

On August 31, 2006, Dr. Petty indicated as follows,

This letter is in regards to Aurora

Carter, Marlene Seratt and Daniel McMillan. Based on their symptoms and the chronological order that these events took place, I believe with medical certainty that the above patients suffer from delayed neurological sequelae due to prolonged carbon monoxide exposure and subsequent poisoning.

The following is medical literature that supports my opinion. . . .

Environmental CO exposure is typically less than 0.001%, or 10 ppm [6], but it may be higher in urban areas [7]. The amount of CO absorbed by the body is dependent on minute ventilation, duration of exposure, and concentrations of CO and oxygen in the environment. . . . A cigarette smoker is exposed to an estimated 400 to 500 ppm of CO while actively smoking [7]. . . . The current Occupational Safety and Health Administration permissible limit for CO exposure in workers is 50 ppm averaged over an 8-hour work day. . . .

The claimant contends that she was injured on June 8, 2005. The parties agreed to litigate compensability "due to carbon monoxide and mold." At the time of the hearing, neither party explicitly informed the Administrative Law Judge which statutory elements of compensability they relied on. The Administrative Law Judge denied the claim, but also failed to indicate which workers' compensation statute

she relied on. Neither party on appeal expressly informs the Full Commission with regard to the relevant statute for adjudication.

Ark. Code Ann. § 11-9-601(e) (1) (Repl. 2002)

provides:

(A) "Occupational disease", as used in this chapter, unless the context otherwise requires, means any disease that results in disability or death and arises out of and in the course of the occupation or employment of the employee or naturally follows or unavoidably results from an injury as that term is defined in this chapter.

(B) However, a causal connection between the occupation or employment and the occupational disease must be established by a preponderance of the evidence.

Although the Act does not define the distinction between "accidental injury" and "disease," one widely accepted and salient distinction is that occupational diseases are generally gradual rather than sudden in onset.

Johnson v. Democrat Printing & Lithograph, 57 Ark. App. 274, 944 S.W.2d 138 (1997), citing Hancock v. Modern Indus. Laundry, 46 Ark. App. 186, 878 S.W.2d 416 (1994). In Hancock, the Court of Appeals reversed the Commission's finding that the claimant had sustained an occupational injury, because the claimant's injury had

resulted from "a single injurious exposure and was sudden in its onset."

In this instance, we find that the claimant's injury was an occupational disease. Though the claimant's symptoms were not gradual in onset, before the incident in question, her symptoms did gradually worsen. They seemed to worsen particularly after the claimant returned to work some two weeks after the exposure on June 8, 2005. While the claimant initially presented with general symptoms of nausea, sore throat, congestion, burning eyes, nausea, shakiness and headache, her x-rays and spirometry were normal. However, the claimant's condition deteriorated and she developed pneumonia and was noted to have an abnormal spirometry reading. Likewise, she was later noted to have mucosal thickening on the MRI of her brain and eventually began suffering from seizures.

Notably, even at the time the carbon monoxide test was performed on June 29, 2005, the carbon monoxide level was at the level of 267 parts per million. As noted by Dr. Petty, OSHA only allows for Carbon monoxide exposure of 50 parts per million over an 8 hour work day. Likewise, it is important to note that Dr. Petty

explicitly indicated that the claimant's condition was caused by prolonged carbon monoxide exposure and subsequent poisoning, thus indicating that it was not a single incident which caused the manifestation of the claimant's condition.

Furthermore, the overwhelming weight of the evidence shows that the claimant's exposure to carbon monoxide was prolonged and continual in nature. In particular, we note the testimony of the various witnesses that they suffered from fatigue and sinus problems after they began working for the respondent. Additionally, we note the testimony that the water heater had not been functioning for some time. Finally, we find it important to note that the events surrounding this incident involved multiple parties that filed workers' compensation claims and that each witness generally indicated they had symptoms that gradually increased over time.

In the case of McMillion v. Pharmerica, Full Commission Opinion filed July 30, 2007, (Claim No. F507639), the Commission explicitly found that the McMillion had an occupational injury due to prolonged exposure to carbon monoxide. Likewise, in this

instance, we find though the claimant was not symptomatic until June 8, 2005, she had already been exposed to carbon monoxide and the events of June 8, 2005, simply caused her to exposure to reach the level that she became symptomatic. Finally, as previously discussed, the claimant's symptoms progressively worsened after she returned to work and even after the claimant returned to work, the level of carbon monoxide was noted to be higher than the guideline set by OSHA. This illustrates that even after the June 8, 2005, incident the claimant continued to be exposed to carbon monoxide and for her condition to worsen. Thus, we find the application of the occupational disease to be applicable.

The record is also wrought with examples of objective evidence that the claimant sustained a compensable occupational injury. On June 8, 2005, the claimant presented with symptoms of congestion, nausea, sore throat, burning eyes, nausea, shakiness, and headache. The claimant remained symptomatic and on June 22, 2005, the claimant was noted to have an abnormal spirometry reading. She was also noted to have swelling and erythema of the pharynx. On the same date the

claimant's x-rays showing that she had, "mild aveolar infiltrates bilaterally", and was diagnosed with pneumonia. Certainly the redness and swelling of the claimant's throat, and the cloudiness on her x-rays consistent with pneumonia and having an abnormal spirometry reading are all findings that are objective in nature.

Likewise, the claimant was not given a carboxyhemoglobin test until over a month after the June 8, 2005, episode. Despite the respondents' own doctor, Dr. Moffitt's, statement indicating that, "This is over a month after the exposure so it is unlikely that there will be any significant abnormality.", the claimant's test results still came back as being in the high range of normal. This is also objective evidence of the claimant's condition and is consistent with her other objective findings of having an injury.

Furthermore, an MRI of the claimant's brain was performed in July 2005 and showed mild mucosal thickening. Additionally, on January 9, 2006, the claimant was noted to have, "Nasal mucosa red and edematous". Finally, the claimant began suffering from seizures after the June 8, 2005, incident. There are

multiple medical reports referencing the claimant's seizures. However, one dated April 1, 2006, indicates the claimant was seen seizing for 2-3 minutes and that she subsequently was noted to have a swollen lip. Clearly, as it appears the seizures were witnessed by trained medical personnel, the claimant's seizure was objective in nature. Additionally, it is important to note the claimant apparently had to have emergency medical treatment during the hearing before the Administrative Law Judge due to having a seizure. The claimant had no history of suffering from seizures; yet, after being exposed to carbon monoxide, she began suffering them frequently. As Dr. Petty specifically indicated that such exposure would cause seizures, and in fact, related the claimant's seizures to the exposure, it is evident that the claimant's seizures are also objective evidence that the claimant sustained injury due to being exposed to carbon monoxide at work.

The claimant also requests medical benefits for her injuries. Based on a de novo review of the record, we find that the claimant has sustained a compensable injury in the form of a gradual exposure to carbon monoxide at work. The claimant has shown that

she is entitled to reasonably necessary medical treatment pursuant to Ark. Code Ann. §11-9-508(a). The claimant is entitled to treatment for her symptoms related to her fatigue, shakiness, allergies, recurring pneumonia, b12 deficiency, muscle soreness, seizures, and other symptoms. For the aforementioned reasons, we reverse the Administrative Law Judge's opinion.

Since the claimant's injury occurred after July 1, 2001, the claimant's attorney's fee is governed by the provisions of Ark. Code Ann. §11-9-715 as amended by Act 1281 of 2001. Compare Ark. Code Ann. §11-8-715 (Repl. 1996) with Ark. Code Ann. §11-9-715 (2002). For prevailing on this appeal before the Full Commission, claimant's attorney is hereby awarded an additional attorney's fee in the amount of \$500.00 in accordance with Ark. Code. Ann. §11-9-715(b) (Repl. 2002).

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

PHILIP A. HOOD, Commissioner

Commissioner McKinney dissents.

DISSENTING OPINION

I must respectfully dissent from the majority opinion finding that the claimant proved by a preponderance of the evidence that she sustained a compensable injury. After conducting a de novo review of the record, I find that the claimant has failed to prove by a preponderance of the evidence that she sustained a compensable occupational disease by way of carbon monoxide poisoning.

No one is disputing the fact that the claimant and several of her co-workers were exposed to carbon monoxide and mold at work. The claimant argued that her exposure to carbon monoxide led to daily seizures, confusion, ataxia, memory loss, incontinence, emotional lability, disorientation, Parkinsonism, and gait and motor disturbances. However, as noted by the Administrative Law Judge, the claimant has failed to produce objective medical evidence of a compensable injury.

The claimant has been administered numerous tests and has been examined by a number of well qualified physicians in varying fields of medicine. With

the exception of the common, everyday findings in allergy sufferers in Arkansas (which is demonstrated by the MRI findings of July 22, 2005, wherein it was noted that she had a thickening in the posterior aspect of the sphenoid air cells) the record is silent with regard to objective medical findings. In fact, the claimant underwent a carbon monoxide blood test, MRI of the brain and an arterial blood gas test. ALL of these tests came back normal. It is axiomatic that the objective medical findings must be causally related to the alleged compensable injury. A bruise on the cheek while objective medical evidence is not sufficient to establish the compensability of a herniated cervical disc. While one may show that a fall resulted in both the bruise and the herniated disc, each is a separate injury, requiring objective medical evidence to establish causation. While the claimant admittedly proved the existence of objective medical findings associated with the common allergy, there is no evidence whatsoever that these findings are in any way causally related to carbon monoxide poisoning. Thus, the claimant may have proven the existence of a reaction to the mold, but she has not proven the compensability of carbon

monoxide poisoning.

Furthermore, the evidence in the record demonstrates that the claimant had headaches prior to June 8, 2005 and had a history of them occurring over her lifetime. The claimant admitted that she had no symptoms at all prior to June 8, 2005 when the leak was detected but, in reality, the leak had existed for a long period of time before the employees were informed of it. Moreover, the first seizure the claimant had was ten months after the June 8, 2005, episode. The claimant admitted that no doctor has treated her or been able to diagnose the reason for her seizures. In fact, at the hearing she testified as follows:

Q. Do you have any proof of any kind that there is anything wrong with you because of carbon monoxide?

A. Everything is wrong with me.

Q. All right.

A. I have no proof, because how do you want me to prove it? I can only tell you that I am sick, and I wasn't sick before.

The claimant has the burden of proving by a preponderance of the evidence the compensability of her claim. Jordan v. Tyson Foods, 51 Ark. App. 100, 911

S.W.2d 593 (1995); Kuhn v. Majestic Hotel, 50 Ark. App. 23, 899 S.W.2d 845 (1995). For the claimant to establish a compensable injury as a result of a specific incident which is identifiable by time and place of occurrence, the following requirements of Ark. Code Ann. §11-9-102(4) (A) (Supp. 2005), must be established: (1) proof by a preponderance of the evidence of an injury arising out of and in the course of employment; (2) proof by a preponderance of the evidence that the injury caused internal or external physical harm to the body which required medical services or resulted in disability or death; (3) medical evidence supported by objective findings, as defined in Ark. Code Ann. §11-9-102(16), establishing the injury; and (4) proof by a preponderance of the evidence that the injury was caused by a specific incident and is identifiable by time and place of occurrence. See also, Ark. Code Ann. §11-9-102(4) (E) (i) (Supp. 2005); Freeman v. ConAgra Frozen Foods, 344 Ark. 296, 40 S.W.3d 760 (2001); Wal-Mart Stores, Inc. v. Westbrook, 77 Ark. App. 167, 72 S.W.3d 889 (2002). If the claimant fails to establish by a preponderance of the evidence any of the requirements for establishing the compensability of a claim,

compensation must be denied. Mikel v. Engineered Specialty Plastics, 56 Ark. App. 126, 938 S.W.2d 876 (1997), see also, Reed v. ConAgra Frozen Foods, Full Commission Opinion, February 2, 1995 (Claim No. E317744).

After weighing the evidence impartially, without given the benefit of the doubt to either party, I am constrained to find that the claimant has failed to prove by a preponderance of the evidence that she sustained a compensable occupational disease that is established by objective medical findings. In my opinion, a review of all the evidence fails to disclose the existence of any objective medical evidence establishing a compensable injury.

Therefore, for all the reasons set forth herein, I must respectfully dissent from the majority opinion.

KAREN H. MCKINNEY, Commissioner