

1996; she returned to work and then stopped working on May 16, 1996 and did not return. By decision dated January 10, 2001, the Office accepted an episode of ventricular tachycardia in late 1995, and found that appellant had not established any employment-related disability after May 18, 1996. In a decision dated January 2, 2002, the Board affirmed that appellant had not established entitlement to compensation after May 18, 1996. With respect to the aggravation of asthma, the Board found that the weight of the evidence was represented by Dr. Roy St. John, the second opinion pulmonary specialist, who opined that the employment-related aggravation was temporary and would have ceased by May 18, 1996. The Board also noted that Dr. Charles Bush, the second opinion cardiologist, opined that ventricular tachycardia was a closed event and appellant recovered as soon as the event ended.

In a letter dated September 12, 2002, appellant requested reconsideration of her claim. Appellant submitted a report dated April 16, 2002 from Dr. Charles Small, her treating family practitioner, who stated that he was appellant's physician from 1993 to November 2001, noting that she had preexisting asthma and allergies to dust and mold. He stated that environmental contaminants such as dust, smoke, vapors and mold "will cause episodes of worsening of asthma. It can also cause a slow degradation of the lung condition causing the asthma to become harder to control if these contaminants are not removed from the patient's personal environment." Dr. Small noted that an asthmatic will develop chronic lung disease such as emphysema faster than the general public. With respect to appellant's treatment, he noted that on May 16, 1996 appellant was exposed to adhesive solvent vapor at work and received emergency room treatment. Dr. Small indicated that he saw appellant on May 20, 1996 and she had recovered from this incident. He concluded that appellant had severe asthma and a heart arrhythmia, and that appellant was still subject to asthma exacerbations.

In a decision dated April 20, 2004, the Office reviewed the case on its merits and denied modification of its prior decisions.

LEGAL PRECEDENT

Under the Federal Employees' Compensation Act, when employment factors cause an aggravation of an underlying physical condition, the employee is entitled to compensation for the periods of disability related to the aggravation.² When the aggravation is temporary and leaves no permanent residuals, compensation is not payable for periods after the aggravation ceased.³ If the employment exposure causes a permanent condition, such as a heightened sensitivity to a wider field of allergens, the claimant may be entitled to continuing compensation;⁴ a medical restriction that is based on a fear of future aggravation due to employment exposure is not employment related.⁵

² *Mary A. Moultry*, 48 ECAB 566 (1997).

³ *Id.*

⁴ *James C. Ross*, 45 ECAB 424 (1994); *Gerald D. Alpaugh*, 31 ECAB 589 (1980).

⁵ *Gaetan F. Valenza*, 39 ECAB 1349 (1988).

ANALYSIS

Dr. Small noted that when he saw appellant on May 20, 1996 she had recovered from an employment incident on May 16, 1996 with respect to exposure to a chemical vapor. This is consistent with Dr. St. John's opinion that any aggravation of asthma would be temporary. As the Board indicated in its prior decision, a claimant is not entitled to compensation if the medical evidence establishes only that future work exposure may cause additional aggravation of the underlying condition. To establish entitlement to continuing compensation after the initial effects of the injury have ceased, the evidence must show a permanent condition, such as a heightened sensitivity to a wider field of allergens.

Dr. Small also noted that exposure to environmental allergens can cause a slow degradation of the lungs, but he did not provide a reasoned opinion that the work exposures caused a permanent condition in this case. He indicated that asthma patients develop emphysema faster than the general public; the specific issue, however, is whether a permanent condition, such as a heightened sensitivity, is causally related to the accepted work exposures. Dr. Small did not diagnose emphysema or provide an opinion on causal relationship between a permanent condition and the employment exposure. A diagnosis of severe asthma and heart arrhythmia is not itself enough to establish entitlement to compensation after May 18, 1996.

CONCLUSION

The Board finds that Dr. Small did not provide a reasoned opinion that the employment exposure to dust, mold, vapors and other substances caused a permanent condition. The medical evidence of record is not sufficient to establish entitlement to compensation after May 18, 1996.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 20, 2004 is affirmed.

Issued: October 12, 2004
Washington, DC

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member