FILE NAME: Insulators Workers' Comp Claims (IWC)

DATE: 1961

DOC#: IWC024

DOCUMENT DESCRIPTION: Claimant - Gronenthal

BEFORE THE BOARD OF INDUSTRIAL INSURANCE APPEALS

STATE OF WASHINGTON

In re JOHN B. GRONENTHAL, DEC'D.) DOCKET NO. 15,975
Claim No. C-753051) DECISION AND ORDER

APPEARANCES:

Petitioner, Lilly Nancy Gronenthal, by
Frederickson, Maxey & Bell, per
Leo H. Fredrickson

Employers:
Vermiculite Contractors, Inc. by
Bayley, Fite, Westberg & Madden, per
Alfred J. Westberg

Fibreglas Engineering Co., by
Joseph J. Stangle and George Young

E. G. Bartells, by
H. A. Johnson and E. W. Eller, Contract Manager

V. S. Jenkins,
None

Charles R. Brower Co.,
None

Curtis Insulating Co.,
None

Associated Asbestos & Cork,
None

Insulation, Inc.,
None

Armstrong Contractors & Supply Co.,
None

Tacoma Asbestos,
None

Department of Labor and Industries, by
The Attorney General, per
Marcus M. Kelly, Assistant

Appeal filed by the petitioner, Lilly Nancy Gronenthal, widow of the deceased workman, John B. Gronenthal, on July 7, 1961, from an order of the supervisor of industrial insurance dated June 7, 1961, denying the petitioner's claim for a widow's pension on the ground that the decedent's death was due to

11/30/62

alveolar cell carcinoma, a condition which was alleged to be unrelated to his occupation. Reversed and remanded.

DECISION

The deceased workman, John B. Gronenthal, died on January 12, 1961. The issue presented by this appeal is whether the deceased workman developed an occupational disease as a proximate result of his exposure to various commercial insulation materials in the course of his employment in this state from 1942 to 1960 as an insulation installer for one or more of the various employers for whom he worked during that period, Simpson Logging Company v. Department of Labor and Industries, 32 Wn. (2d) 472 and Favor v. Department of Labor and Industries, 53 Wn. (2d) 698; and if so, whether that disease was a materially contributing factor to his death, Towne v. Department of Labor and Industries, 51 Wn (2d) 644; in the sense that death would not have occurred when it did without such disease, Petersen v. Department of Labor and Industries, 40 Wn. (2d) 635, and that he otherwise would have lived for an indefinite and unpredictable time. Mork, v. Department of Labor and Industries, 48 Wn. (2d) 74.

This issue must be decided by the board "upon the evidence rather than upon the information or experience of its members." Kaiser Aluminum and Chemical Corporation v. Department of Labor and Industries, 45 Wn. (2d) 745.

It is clear from the record that from 1942 to 1960 Mr. Gronenthal, while working, was exposed to a variety of commercial mineral insulating materials. Spectrographic analysis of these materials establishes that the major constituent of most of them was "silica or a silicate compound." It is uncontroverted on the record that he developed a condition called asbestosis, otherwise described as "interstitial fibroses, diffuse, as a result of having breathed into the lungs these insulating materials which contain silicates and/or silica, large amounts of it, which can be asbestos and other commercial products." An autopsy report, introduced into the record as an exhibit, establishes (a) that Mr. Gronenthal died as a result of having developed a condition called cor

pulmonale, which is described as "an enlargement of the right side of the heart due to resistance of the blood flow through the lungs," and (b) that microscopic examination of the decedent's lung tissue revealed "diffuse bilateral alveolar carcinoma of the lungs (pulmonary adenomatosis)."

The real problem presented by this appeal, therefore, is to determine what caused the cor pulmonale condition to develop in the deceased workman's heart. After a careful review of the record before us, we are persuaded that more likely than not, the "asbestos" particles in Mr. Gronenthal's lung tissue were carcinogenic agents which materially contributed to the development of the pulmonary adenomatosis, and that his combined pulmonary condition thus created caused the cor pulmonale resulting in his death on January 12, 1961.

FINDINGS

1. On January 25, 1961, the department of labor and industries received a claim for a widow's pension from Lilly Nancy Gronenthal, surviving spouse of John B. Gronenthal. On June 7, 1961, the supervisor of industrial insurance issued an order rejecting the widow's claim for benefits under the workmen's compensation act. On July 7, 1961, the petitioner filed notice of appeal with this board, and on August 3, 1961, her appeal was granted.

2. From June, 1942, to July, 1960, except for the period from September, 1946, to September, 1948, the decedent was regularly employed as an insulation mechanic for several firms engaged in extrahazardous employment in the state of Washington. During his employment as an insulation mechanic the decedent worked with various types of industrial insulating materials, predominantly asbestos products and products made of glass and extruded glass, which fundamentally are silicas and/or silicates. These products are manufactured in various shapes and forms, including solid and flexible forms, and their installation requires that they be cut, shaped, pounded, drilled, and worked on with a variety of tools. During the process of installing or applying the insulating materials, dust composed of particles of insulating materials is present in greater or lesser quantities. The extent to which the decedent's lungs were exposed to such dust was dependent upon several factors, including the type and form of material, the size and weight of the particles of dust, the extent of

ventilation, the temperature, the degree of physical exertion expended by the workman, and the position of the materials being installed with relation to the workman.

3. As a result of his exposure to dust occasioned by the use of these various industrial insulating materials, Mr. Gronenthal developed a pulmonary condition called "asbestosis," otherwise described as diffuse interstitial fibrosis. The "asbestos," particles (silicas and/or silicates) in the decedent's lung tissue acted as carcinogenic agents which materially contributed to the development of alveolar cell carcinoma of the lungs (pulmonary adenomatosis), and the combined pulmonary disease resulting therefrom caused a condition described as cor pulmonale as a result of which Mr. Gronenthal died on January 12, 1961.

CONCLUSIONS

Based on the foregoing findings of fact, the board concludes:

1. This board has jurisdiction of the parties and subject matter of this appeal.

2. The order of the supervisor of the supervisor of industrial insurance issued herein on June 7, 1961, should be reversed and this claim remanded to the department with instructions to allow the petitioner's claim for widow's benefits under the workmen's compensation act and to take such further action as may be authorized or required by law.

ORDER

Now, therefore, it is hereby ORDERED that the order of the supervisor of industrial insurance issued herein on June 7, 1961, be, and the same is hereby, reversed and this claim remanded to the department with instructions to allow the petitioner's claim for widow's benefits under the workmen's compensation act and to take such further action as may be authorized or required by law.

Dated this 30th day of November, 1962.

BOARD OF INDUSTRIAL INSURANCE APPEALS

R. H. POWELL Member

HAROLD J. PETRIE Member

RR

June 26, 1962

BEFORE THE BOARD OF INDUSTRIAL INSURANCE APPEALS

STATE OF WASHINGTON

In re: John B. Greenthal, Dec'd	DOCKET NO. 15,973
Claim No. C-723052	NOTICE OF HEARING

TO: John B. Greenthal, deceased workman;
Lilly Nancy Greenthal, surviving widow, and Petitioner;
Nancy and Ball, her attorneys;
W. E. Jenkins, Charles E. Brown Co., Curtis Insulating Co., Accessory Corp., Pittsburgh Reg. Company, H. J. Carter & Co., Vermiculite Co., Associated Asbestos & Cork, Insulation Inc., Armstrong Cork & Supply Company, Tacoma Asbestos, and Bayley, Fitz, Westbury and Madden, attorneys for Vermiculite Co.; and to the Department of Labor and Industries, and
GREETINGS: John J. O'Connell, The Attorney General, and John J. Cubbe, Chief of Staff, its attorneys.

YOU AND EACH OF YOU WILL HEREWITH TAKE NOTICE that a hearing will be held on the issues raised in the above-numbered claim at:

Spokane County Court House,
Spokane, Washington, on
Tuesday, July 16, 1963 at
9:30 A.M.,

pursuant to Section 51.52.100, Revised Code of Washington, and Section 5.5, Rules of Procedure of the Board of Industrial Insurance Appeals.

You are advised that Section 51.52.102, Revised Code of Washington, provides that each party shall present all his evidence with respect to the issues raised in the notice of appeal at the above time and place and in the event of failure so to do the board may determine the issues upon such evidence as may be presented to it at said hearing.

Continuances will be granted only as provided in Section 51.52.102, Revised Code of Washington, and Section 5.9, Rules of Procedure of the Board of Industrial Insurance Appeals, which rules may be procured from the Secretary of said Board.

The parties to the above-numbered appeal are as follows:
John B. Greenthal, deceased workman;
Lilly Nancy Greenthal, surviving widow;
W. E. Jenkins, Charles E. Brown Co., Curtis Insulating Company, Accessory Corp., Pittsburgh Reg. Co., H. J. Carter & Co., Vermiculite Co., Associated Asbestos & Cork, Insulation Inc., Armstrong Cork & Supply Co., Tacoma Asbestos, employer;
The Department of Labor and Industries.

DATED at Olympia, Washington, this 10th day of June, 1963.

BOARD OF INDUSTRIAL INSURANCE APPEALS

by Robert K. Ferris
Secretary to Board

(over)

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have this day served the foregoing Notice of Hearing upon the following parties of record in this proceeding by mailing a true copy thereof by United States mail, properly addressed with postage prepaid, to each of the following parties to the proceeding or his attorney or authorized agent as follows:

Lilly M. Greenthal
E. 1114 Fifth Ave.
Spokane, Washington
Appearing as surviving widow

Vermiculite Co.
2017 N. 34th Street
Seattle, Washington
Appearing as employer

Fredrickson, Kenny, and Bell, Attys.
906-908 Rookery Bldg.
Spokane, Washington
Appearing as attorneys for surviving widow

W. E. Jenkins
1923 1st Ave. So.
Seattle, Washington
Appearing as employer

Bogle, Fite, Wortboy and Madden, Attys.
715 Colman Henry Stuart Bldg.
Seattle 1, Washington
Appearing as attys. for above fi

Charles R. Brower Co.
114 Virginia St.
Seattle, Washington
Appearing as employer

Associated Asbestos & Cork
4411 22nd Ave. W.
Seattle, Washington
Appearing as employer

Curtis Insulating Co.
E. 715 [illegible]
Spokane, Washington
Appearing as employer

Insulation Inc.
[illegible]
Spokane, Washington
Appearing as employer

Fiberglass Eng. Co.
P.O.Box 88
Santa Clara, California
Appearing as employer

Armstrong Cont. & Supply Co.
190 N. Lime St.
Lancaster, Penn.
Appearing as employer

E. J. Bartells Co.
1213 6th Ave. South
Seattle, Washington
Appearing as employer

Tacoma Asbestos
321 S. 25th
Tacoma, Washington
Appearing as employer

Armstrong Cork
(notice returned)

DATED at Olympia, Washington, this 19th day of June, 196[illegible].

John J. Quinn, Chief of Staff
215 Norton Building
Seattle, Washington
Appearing as attorney for the Department.

SECRETARY, BOARD OF INDUSTRIAL INSURANCE APPEALS

BEFORE THE BOARD OF INDUSTRIAL INSURANCE APPEALS

STATE OF WASHINGTON

Original Copy mailed to HC45 - Spokane with

In re JOHN D. GRONENTHAL, DEC'D) DOCKET NO. 15,975

Claim No. C-788091) NOTICE OF HEARING

TO: John D. Gronenthal, deceased workman;
Lilly Nancy Gronenthal, surviving widow, and Fredrickson, Hendy and Doll, her attorneys;
V.M. Jenkins, Charles R. Brewer Co., Curtis Insulating Co., Armstrong Cork, Fiberglass Eng. Co., B.J. Bartells Co., Vermiculite Co., Associated Asbestos & Cork, Insulation Inc., Armstrong Cork & Supply Co., Tacoma Asbestos; and to
The Department of Labor and Industries, and
John J. O'Connell, The Attorney General, and
John J. Quinn, Chief of Staff, its attorneys.

GREETINGS:

YOU AND EACH OF YOU WILL HEREWITH TAKE NOTICE that a hearing will be held on the issues raised in the above-numbered appeal at

Spokane County Court House,
Spokane, Washington, on
Friday, January 5, 1962 at
1:30 P.M.,

12/21/61 amd

pursuant to Section 11, Chapter 225, Laws of 1951, and Section 5.5, Rules of Procedure of the Board of Industrial Insurance Appeals.

You are advised that Section 12, Chapter 225, Laws of 1951, provides that each party shall present all his evidence with respect to the issues raised in the notice of appeal at the above time and place and in the event of failure so to do the board may determine the issues upon such evidence as may be presented to it at said hearing.

Continuances will be granted only as provided in Section 12, Chapter 225, Laws of 1951, and Section 5.9, Rules of Procedure of the Board of Industrial Insurance Appeals, which rules may be procured from the Secretary of said Board.

The parties to the above-numbered appeal are as follows:

John D. Gronenthal, deceased workman;
Lilly Nancy Gronenthal, surviving widow;
V. S. Jenkins, Charles R. Brewer Co., Curtis Insulating Co., Armstrong Cork, Fiberglass Eng. Co., B. J. Bartells Co., Vermiculite Co., Associated Asbestos & Cork, Insulation Inc., Armstrong Cork & Supply Co., Tacoma Asbestos, employer;
The Department of Labor and Industries.

DATED at Olympia, Washington, this 14th day of December, 196 1.

BOARD OF INDUSTRIAL INSURANCE APPEALS

By Robert T. Terrell
Secretary to the Board

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have this day served the foregoing Notice of Hearing upon the following parties of record in this proceeding by mailing a true copy thereof by United States mail, properly addressed with postage prepaid, to each of the following parties to the proceeding or his attorney or authorized agent as follows:

Lilly Nancy Greenthal
E. 2216 5th Ave.
Spokane, Washington
Appearing as surviving widow

Vermiculite Co.
2107 N. 34th Street
Seattle, Washington
Appearing as employer

Breidenthal, Nancy and Bell, Attys.
305-307 Lockery Bldg.
Spokane, Washington
Appearing as attys. for surviving widow

Associated Asbestos & Cork
4121 32nd Ave. W.
Seattle, Washington
Appearing as employer

V. S. Jenkins
1753 1st Ave.,S.
Seattle, Washington
Appearing as employer

Insulation Inc.
P.O.Box 1003
Spokane, Washington
Appearing as employer

Charles R. Denver Co.
114 Virginia St.
Seattle, Washington
Appearing as employer

Armstrong Cont.& Supply Co.
120 N. Lime St.
Lancaster, Penn.
Appearing as employer

Central Insulating Co.
N. 713 Cook
Spokane, Washington
Appearing as employer

Tacoma Asbestos
331 S. 25th
Tacoma, Washington
Appearing as employer

Armstrong Cork
503 Terminal Sales Bldg.
Seattle, Washington
Appearing as employer

John J. Quinn, Chief of Staff
216 Norton Building
Seattle, Washington
Appearing as attorney for Dept

Fiberglass Eng. Co.
P.O.Box 20
Santa Clara, California
Appearing as employer

D. J. Bertolle Co.
1213 6th Ave. S.
Seattle, Washington
Appearing as employer

DATED at Olympia, Washington, this 14th day of December, 196 1.

SECRETARY, BOARD OF
INDUSTRIAL INSURANCE APPEALS

September 5, 1961

Mr. F. L. Gardner
Armstrong Contracting and Supply Corp.
120 North Lime Street
Lancaster, Pa.

Dear Fred:

Subject: John B. Gronenthal
Workmen's Compensation Claim
Washington

The attached notice indicates a hearing will be held September 12, in Spokane, Washington. Our records indicate Gronenthal was employed in Washington by both Armstrong Cork Company and Armstrong Contracting and Supply.

We did not receive a copy of the accident report, however, we presume this is an asbestosis claim which comes under the jurisdiction of the Washington Department of Labor and Industries.

In case someone in the Spokane Office might wish to attend the hearing we list below the periods of employment with Armstrong Contracting and Supply:

June 9, 1958 to August 28, 1958
December 23, 1958 to March 13, 1959
October 13, 1959 to November 3, 1959
January 18, 1960 to June 3, 1960

Washington is a monopolistic state, not covered by Travelers.

Sincerely yours,

R. C. Schiedt, Jr.
Insurance Department

MLT

Enclosure

BEFORE THE BOARD OF INDUSTRIAL INSURANCE APPEALS

STATE OF WASHINGTON

In re [illegible]) DOCKET NO. [illegible]

Claim No. [illegible]) NOTICE OF CONFERENCE

TO: [illegible], deceased workman;
[illegible], surviving widow; and [illegible]
Said, her attorney;
T. B. Dowling; Charles E. Brewer, Co.; Cascade Employ
Mutual Casualty Company; Pacific Fire & Marine Company; R. J. Bartell
Furniture Co.; Associated Indemnity & Surety Insurance Co.; Washington
Surety Company; Surety Co. and Zurich Indemnity Co.
the Department of Labor and Industries; and
[illegible], Its Attorney General; and
GREETING: John J. Quilo, Chief of Staff, His Attorneys.

YOU AND EACH OF YOU WILL HEREWITH TAKE NOTICE that a conference will be held in the above appeal at

[illegible] County Health Building,
North 312 Jefferson Street,
Tacoma, Washington, on
Monday, September 13, 1954 at
10:00 o'clock A.M., or as soon thereafter
as the matter may be heard,

pursuant to Section 10, Chapter 225, Laws of 1951, and Section 5.3, Rules of Procedure of the Board of Industrial Insurance Appeals.

8/30/54 WCB

This conference is held for the purpose of determining the feasibility of settlement, the simplification of issues of law and fact, the necessity of amendments to the notice of appeal or other pleadings, the possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof, limitation of the number of expert witnesses, and such other matters as may aid in the disposition of the appeal.

You are advised that Section 10, Chapter 225, Laws of 1951, provides in part as follows:

"If agreement concerning final disposition of the appeal is reached by the parties present at the conference, or by the employer and the workman or beneficiary, the board may enter a final decision and order in accordance therewith, providing the board finds such agreement is in conformity with the law and the facts."

GIVEN at Olympia, Washington, this [illegible] day of [illegible], 1954.

BOARD OF INDUSTRIAL INSURANCE APPEALS

By [illegible]
Secretary to the Board

(over)

CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I have this day served the foregoing Notice of Conference upon the following parties of record in this proceeding by mailing a true copy thereof by United States mail, properly addressed with postage prepaid to each of the following parties to the proceeding or his attorney or authorized agent as follows:

Lilly Roney Greenleaf
East 1128 Fifth Avenue
Spokane, Washington
Appearing as [illegible]

Pedelford, Young and Reid
Attorneys at Law
205-209 Hadley Bldg.
Spokane, Washington
Appearing as attorneys for petitioner

V. E. Jundine
1218 1st Ave. South
Seattle, Washington
Appearing as employer

Charles K. Steiner Co.
114 Virginia St.
Seattle, Washington
Appearing as employer

Cascade Insulating Co.
N. 713 Cook
Spokane, Washington
Appearing as employer

Armstrong Cork
838 Terminal Sales Bldg.
Seattle, Washington
Appearing as employer

Fiberglass Eng. Co.
P.O.Box 58
Santa Clara, California
Appearing as employer

H. J. Merrills Co.
1218 6th Ave. South
Seattle, Washington
Appearing as employer

American Asbestos & Cork
4648 22nd Ave. W.
Seattle, Washington
Appearing as employer

Insulation Inc.
P.O.Box 1868
Spokane, Washington
Appearing as employer

Armstrong Cork & Supply Co.
1258 E. Lane St.
Lancaster, Penna.
Appearing as employer

Tacoma Asbestos
10th and K
Tacoma, Washington
Appearing as employer

John J. Quinn, Chief of Staff
1212 Smith Tower
Seattle 4, Washington
Appearing as attorney for the Department.

8107 N. 36th Street
Seattle, Washington
Appearing as employer

DATED at Olympia, Washington, this 22nd day of August, 196[illegible]

SECRETARY, BOARD OF
INDUSTRIAL INSURANCE APPEALS

Fabian K. Lyon Jr. 536-03-189

Spokane 4-4-51 to 7-27-51 Wash.

Spokane 10-5-53 to 10-13-53 } Wash.
12-7-53 to 12-17-53 }

Richland 1-4-54 to 1-15-54 Wash.
4-29-54 to 6-11-54 Wash.
1 week Idaho
7-6-54 to 4-8-55 Wash.
1 week Monta
4-28-55 to 7-14-55 Wash.
4 weeks Monta.

Spokane 6-9-58 to 8-28-58 Wash,
12-23-58 to 3-13-59 Wash
10-13-59 to 11-3-59 Wash
1-18-60 to 6-3-60 Wash
1 week Idaho

RCS

BEFORE THE BOARD OF INDUSTRIAL INSURANCE APPEALS

STATE OF WASHINGTON

RECEIVED AUG 10 1961

In re JOHN B. GRONENTHAL, DEC'D.	DOCKET NO. 15,975
Claim No. C753051	ORDER GRANTING APPEAL

Claimant's notice of appeal in the above-entitled claim came on for consideration this day. After considering the allegations contained in said notice of appeal, this board is of the opinion that claimant's appeal should be granted.

It is, therefore, ORDERED that the above appeal be granted and that a conference be held on the issues raised therein after due notice of time and place to all interested parties.

Dated this 3rd day of August, 1961.

BOARD OF INDUSTRIAL INSURANCE APPEALS

J. HARRIS LYNCH, Chairman

JOE DAVIS, Member

HAROLD J. PETRIE, Member

cc:

Lilly Nancy Gronenthal
E. 1116 Fifth Avenue
Spokane, Washington

Fredrickson, Mawey & Bell
Attorneys at Law
208 Rookery Bldg.
Spokane, Washington

V. S. Jenkins
1955 1st Avenue So.
Seattle, Washington

Chas. R. Brower Co.
114 Virginia St.
Seattle, Washington

Curtis Insulating Co.
E. 713 Cook
Spokane, Wash.

Armstrong Cork
803 Terminal Sales Bldg.
Seattle, Washington

Fiberglass Eng. Co.
P. O. Box 89
Santa Clara, Calif.

E. J. Bartells Co.
1212 6th Avenue So.
Seattle, Washington

Vermiculite Co.
2107 N. 34th St.
Seattle, Washington

cc: Associated Asbestos & Cork
4401 23rd Avenue W.
Seattle, Washington

Insulation Incorporation
P. O. Box 1302
Spokane, Washington

Armstrong Cont. & Supply Co.
120 N. Lime St.
Lancaster, Pennsylvania

Tacoma Asbestos
14th & K
Tacoma, Washington

cc Dept. of Labor and Industries

THIS ORDER AND COPY OF APPEAL REFERRED TO HEREIN ARE FORWARDED TO THE INTERESTED PARTIES IN COMPLIANCE WITH THE PROVISIONS OF SEC. 8, CHAP. 274, LAWS OF 1961.

BEFORE THE BOARD OF INDUSTRIAL INSURANCE APPEALS
OF THE STATE OF WASHINGTON

IN RE:

LILLY NANCY GRONENTHAL,

Petitioner,

JOHN B. GRONENTHAL,

Deceased.

CLAIM NO. C 753051

NOTICE OF APPEAL AND APPLICATION FOR REHEARING

TO: BOARD OF INDUSTRIAL INSURANCE APPEALS and DIRECTOR OF LABOR & INDUSTRIES

The above named claimant appeals from that certain Order of the Supervisor of Industrial Insurance dated 6-7-61, entitled "General Order", which Order denied her claim for benefits as the surviving widow of John B. Gronenthal, Deceased, and petitions the Board for a hearing on the merits of her claim. She alleges that:

1. She resides at East 1116 Fifth Avenue, Spokane, Washington, and she has retained Fredrickson, Maxey & Ball, 208 Peobery Building to represent her and directs that all correspondence of every nature be sent to her in care of her attorneys.

2. Her husband, John B. Gronenthal, died as a result of an occupational disease, which had been sustained in his normal work over the past nineteen years.

WHEREFORE, the claimant p[illegible] that the order of the [illegible] be reversed; that her cla[illegible] benefits as the surviving [illegible] provided by law.

[illegible] MAXEY & B[illegible]

9-17-56 to 11-9-56 team of Alaska

12-3-56 to 6-6-57 Alaska

worked in Cordova as a fish

buyer

Before The Board Of Industrial Appeals
State Of Washington

In Re John B, Gronenthal, Dec' D.)
)
Claim No C-753051)

Docket No L5,975

Decision And Order

Appearances:

Petitioner, Lilly Nancey Gronenthal, by
Frederickson, Maxey & Bell, Per
Leo H. Fredrickson

Employers:

Vermiculite Contractors, Inc. By
Bayley, Fite, Westberg & Madden, per
Alfred J. Westberg

Fiberglas Engaineering Co., by
Joseph J. Stangle And George Young

E. G. Bartells, by
H. A. Johnson and E. W. Eller, Contract Manager

V. S. Jenkins,
none

Curtis Insulation Co.,
None

Charles R. Brower Co.,
None

Associated Asbestos & Cork
None

Insulation, Inc.,
None

Armstrong Contractors & Supply Co,.
None

Tacoma Asbestos,
None

Department of Labor and Industries, by
The Attorney General, per
Marcus M. Kelley, Assistant

Appeal filed by the petitioner, Lilly Nancy Gronenthal, Widowof the deceased workman, John B. Gronenthal, on July 7, 1961, denying the petitioner's claim for a widows pensio n on the 7 day of June 1961, On the Ground that the decedents death was due to

11/30/62

Alveolar cell carinoma, a condition which was alleged to be unrelated to his occupation. Reversed and remanded.

Decision

The deceased workmen, John B. Gronenthal, Died on January 12 1962. Thee issue presented by this appeal is whether the deceased workman dev eloped an occupational disease as a proximate result of his exposure to various commercial insulation materials in the course of his employment in this state from 1942 to 1960 as an insulation installer for one or more of the various employers forwhom he worked during that period, Simpson Logging Company v. Department of Labor and Industries 32 Wn.(2d) 472 and Favor v. Department of Labor and Industries, 53 Wn. (2d) 698; and if so, whether that disease was a materially contributing factor to his death, Towne v. Department of Labor and Industries , 51 Wn (2d) ,644 in the sense that death would not have occured when it did without such disease, Petersen v. Department of labor and Industries, 40 Wn. (2d) 635, and that he otherwise would have lived for an indefinite and unpredictable time.

Mork, v. Department of Labor and Industries, 48. (2d) 74.

This issue must be decieded by the board " upon the evidence rather than upon the information or experience of " its members."

Kaiser Aluminum and Chemical Corpation V. Department of Labor and Industries, 45 Wn . (2d) 745.

It is clear from the record that from 1942 to 1960 Mr. Gronenthal, while working, was exposed to a variety of commercial minerals establishes that the major constituent of most of theme was "silica or a silicate compound. " It is uncontroverted on the records that he developed a condition called Asbestosis, otherwise discribed as "interstitial fibroses, diffuse, as a result of having breathed into the lungs these insulating materials which contain silicates and / or silica, large amounts of it, which can be Asbestos and other commercials products." An autopsy report, introduced into the records as an exhibit,establishes (A) that Mr. Gronenthaldied as a result of having developed a condition called corpulmonale, Which is described as " an enlargement of the right side of the heart due to resistance of the blood flow through the lungs," And (B) that microcopic examinationof the decedent'slung tissue revealed " diffuse bil ateral alveolar carcinoms of the lungs (pulmonary adenomatosis). "

The real problem presented by this appeal, therefore, is to determine what caused the cor pulmonale condition to develop in the deceased workman's heart. After a careful review of the record before us, We are persuaded that more likel y than not, the " Asbestos" particles in Mr. Gronenthal's lung tissue wer e carcinogenic agents which materially contributed to the development of the pulmonary adenomatosis, and that his combined pulmonary condition thus created caused the cor pulmonale resulting in his death on 12, 1961.

Findings

1. On January 25, 1961, the department of laborand industries received a claim for a widow's pension from Lilly Nancy

Gronenthal, Surviving Spouse of John B. Gronenthal. On June 7, 1961,the supervisor of industrial insurance issued an order rejecting the widow's claim for benefits under the workmans compensation act. OnJuly 7, 1961, the petitioner filed notice ofappeal with this board, and on August 3, 1961, her appeal was granted.

2. From June, to July, 1960, except for the peroid from September, 1946.,to September, 1948, the decedent was regularly employed as an insulation mechanic for several firms engaged in extrahazardous employment in the state of Washington. During his employment as an insulation mechanic the decedent worked with various typesof industrial insulating materials, predominantly asbestos products and products made of glass andextruded glass, which fundamentally are silicasand/or silicates. These products are manufactured in various shapes and forms, including solid and flexible forms, and thier installation requiers that yhey be cut, shaped, pounded, drilled, and worked on with a variety of tools During the process of installing or applyingthe insulation materials, dust composed of particles of insulating materials is present in greater or lesser quantities. The extent to which the decedent's lungs were exposed to such dust was dependent upon several factors, including the type and form of material, the size and weightof the particlesof dust, the extent of ventilation, the, temperature, the degree of physical exertion expended by the workman, and the position of the materials being installed with relation to the workman.

3. as a result of his exposure to dust occasionedby he use of these various industrial insulating materials, Mr. Gronenthal developed a pulmonary condition called " Asbestosis, " otherwise described as diffuse interstitial fibrosis. The " Asbestos particles (silicas and/or silicates) in the dacedents lungs tissue acted as carcinogenic agents which materially contributed to the development of alveolar cell carcinoma of the lungs (pulmonary adenomatosis), and the combined pulmonary disease resulting therefrom caused a condition described as cor pulmonale as a result of which Mr. Gronenthal died on January 12, 1961.

Conclusions

Based on the foregoing findings of, theboard concludes

1. This board has jurisdiction of the parties and subject matter of this appeal.

2. The order of the supervisor of thesupervisor of industrial insuranceissued herein on June 7, 1961, should be reversed and this claim remanded to the department with instructions to allow the petitioner's claim for widow's benefits under the workmans compenaation act and to take such further action as may be authorized or required by law.

Order

Now, therefor, it is hereby Ordered that the order of the supervisor of industrials insurance issued herein on June 7, 1961,be, and the same is hereby , reversed and this claim remanded to the department with instructions to alloww the

petitioner's claim for widow's benefits under the workmans compensation act and to take such further action as may be authorized or required by law.

Dated this 30th day of November, 1962.

Board of Industrial Insurance Appeails

R. H. Powell member

Harold J. Petrie member