

DECISION OF THE WORKERS' COMPENSATION APPEAL TRIBUNAL

Introduction

- [1] The Workers' Compensation Board (Board), operating as WorkSafeBC, accepted the worker's claim for temporary symptoms of dizziness, headaches, nausea, vomiting, and eye and throat irritation due to exposure to fugitive emissions from foul condensates in the workplace in October 2017. The worker was granted temporary total disability (wage-loss) benefits effective October 13, 2017.
- [2] On October 1, 2018, the Board decided that the worker's entitlement to temporary total disability (wage-loss) benefits would conclude on September 30, 2018. The Board informed the worker that her temporary symptoms, including dizziness, headaches, nausea, vomiting, and eye and throat irritation (identified by the Board officer as the worker's "ongoing symptoms") had resolved. The Board also decided that the worker's reported skin symptoms, cognitive issues and eye sensitivity could not be reasonably related to the October 2017 exposures. The Board informed the worker that gastroesophageal reflux disease (GERD) and irritable larynx/central sensitivity syndrome (ILCSS) were not accepted under the October 2017 claim.
- [3] The worker's request for review of the October 1, 2018 Board decision was denied in a May 27, 2019 Review Division decision (*Review Reference #R0245431*). The review officer decided that the worker's accepted temporary symptoms including dizziness, headaches, nausea, vomiting, and eye and throat irritation had resolved. The review officer also concurred with the Board's finding that the worker's other reported symptoms, specifically her reported skin symptoms, cognitive issues and eye sensitivity, as well as the GERD and ILCSS, were not consequential to the worker's October 2017 exposure. The review officer upheld the Board's decision to conclude the worker's temporary total disability (wage-loss) benefits on September 30, 2018, finding that the worker's accepted symptoms had resolved.
- [4] The worker, represented by legal counsel, now appeals to the Workers' Compensation Appeal Tribunal (WCAT).¹
- [5] Although invited, the employer is not participating in the appeal.
- [6] The worker's request to have her appeal proceed by written submissions was granted on a preliminary basis by the WCAT Registry. I agree it is not necessary to convene an oral hearing. I found that the appeal could be fairly decided on the basis of written submissions. The worker's

¹ At the initial time of her filing her appeal to the WCAT, the worker was not represented; however, shortly thereafter the worker advised the WCAT that she was being represented by legal counsel. Additional time was granted to allow the worker's counsel to provide submissions respecting the worker's appeal to WCAT.

credibility is not in dispute, nor are the facts upon which the claim is based.² The issue at appeal requires consideration of the medical evidence and opinion and the application of the relevant law and policy to that evidence.

Preliminary Matters

- [7] On the worker's Notice of Appeal to WCAT, the worker stated that the Board's October 1, 2018 decision was incorrect and should be changed because the Board failed to consider the relationship of the October 2017 exposure injury to the physical and psychological symptoms that continued to plague her.
- [8] In the Board and Review Division decisions forming the subjects of this appeal, a decision was rendered respecting the worker's entitlement to further temporary total disability (wage-loss) benefits for her accepted temporary symptoms including her reported cognitive difficulties; however, I consider that the decisions before me did not include a specific adjudication respecting whether the worker had sustained a psychological injury.
- [9] Pursuant to item #3.3.1 of the WCAT's *Manual of Rules of Practice and Procedure*, I have the jurisdiction to consider the issues decided in the Board and/or the Review Division decisions on appeal.³ Accordingly, I make no finding respecting the compensability of, or acceptance of, a psychological injury under the worker's October 2017 Board claim.⁴

Issue(s)

- [10] The issues arising from this appeal are, as follows:
1. Is the worker entitled to temporary total disability (wage-loss) benefits beyond September 30, 2018 in relation to the temporary disability/symptoms accepted, including dizziness, headaches, nausea, vomiting, and eye and throat irritation, under the October 2017 workplace exposure claim? If not, did the worker's symptoms in relation to the above resolve?
 2. Are the other conditions, specifically the worker's reported cognitive issues, skin symptoms, eye sensitivity, GERD, and ILCSS, compensable?

Jurisdiction

- [11] On April 6, 2020, the *Workers Compensation Act* (Act) was revised. This decision uses references found in the revised Act, versus the references which may be contained in the underlying Board or Review Division decision. The Act was reorganized and renumbered under

² See Rule #7.5 of the WCAT's *Manual of Rules of Practice and Procedure*.

³ See item #3.3.1 of WCAT's *Manual of Rules of Practice and Procedure*, which provides that WCAT has the jurisdiction to address any issue determined in the Board or the Review Division decisions under appeal; however, WCAT panels will generally restrict their decisions to the issues raised by the appellant in their notice of appeal.

⁴ A review of the Board claim as provided on disclosure indicates that, on February 18, 2020, the Board denied the worker's request to accept a psychological condition under the October 2017 claim.

the *Statute Revision Act* (RSBC 1996, c. 440), effective April 6, 2020. All references to the Act refer to the *Workers Compensation Act*, RSBC 2019, c. 1.

- [12] This appeal was filed under section 288 of the Act. WCAT must make its decision on the merits and justice of the case but, in so doing, must apply a policy of the board of directors of the Board that is applicable in the case.⁵ WCAT may consider all questions of fact and law arising in an appeal, but is not bound by legal precedent (see section 303 of the Act). Section 308 gives WCAT exclusive jurisdiction to inquire into, hear and determine all those matters and questions of fact, law and discretion arising or required to be determined in an appeal.
- [13] This is an appeal by way of rehearing, rather than a hearing *de novo* or an appeal on the record. WCAT has jurisdiction to consider new evidence and to substitute its own decision for the decision under appeal.

Background and Evidence

- [14] In October 2017, the worker, a maintenance utility worker, was part of a fairly large group of mill workers exposed to foul condensates due to the commissioning of an evaporator system. The worker reported that, as a result of her exposure over three days of work, she felt dizzy, developed a headache, and became nauseous and vomited.
- [15] On October 13, 2017, the worker was seen by her attending physician Dr. Baxter. Dr. Baxter documented the worker's report of a three-day exposure to various emissions (methyl mercaptan) at work (October 9 to 11, 2017). The worker reported that, since the exposure, she felt "mentally off", and she was suffering from brain fog, dizziness, and nausea. The worker reported that, on the second day of the emissions, she vomited. By the third day, she vomited again and also developed a headache. The worker reported that her throat was sore and irritated from the vomiting but that the throat symptoms had since improved. The worker told Dr. Baxter that she also was worried and anxious and felt fatigued. Dr. Baxter examined and assessed the worker and reported the worker's respiration rate was normal and that she was talkative. Dr. Baxter reported that the worker's air entry was clear and the worker had a normal oxygen saturation. The worker's throat was slightly red, but her eye examination was normal and there was no nystagmus (involuntary eye movement).
- [16] The Board accepted the worker's claim for temporary symptoms of dizziness, headaches, nausea, vomiting, and eye and throat irritation secondary to the October 2017 workplace exposure.⁶

⁵ Changes to the policy in the RSCM II itself were also made. These changes apply to all decisions, including appellate decisions, made on or after April 6, 2020. The Board's policies were also amended on April 6, 2020, but only to the extent that they correspond to the revised section numbers and language of the revised Act. The effect of these changes is that the version of any applicable policy as it were before February 1, 2020 continues to apply in this appeal, with the changes to section numbers and language reflecting the revised Act.

⁶ Workers at various sites of the mill reported symptoms of light-headedness, dizziness, nausea, sore throat, and headaches.

- [17] In the following month, Dr. Baxter continued to report the worker's symptoms of ongoing confusion and her reports of nausea. The worker reported that her cognitive symptoms precluded her from driving. Dr. Baxter reported the worker was seeing a counsellor. In the injury code section of the physician's report to the Board, Dr. Baxter also identified "anxiety".
- [18] Dr. Baxter then referred the worker for an assessment by ophthalmologist Dr. Nelson, specifically advising Dr. Nelson about the worker's report of symptoms of eye irritation and to rule out any ocular pathology secondary to the October 2017 exposure. In a November 2, 2017 consultation report, Dr. Nelson said there was no ocular pathology to explain the worker's vertigo and nausea symptoms. Instead, he found the worker had mild bilateral blepharitis (eyelid inflammation). He explained that blepharitis could give rise to non-specific symptoms such as itchy/scratchy eyes. Dr. Nelson said the worker's eye examination was otherwise normal other than the mild symptoms of blepharitis.
- [19] In a November 22, 2017 referral letter to neurologist Dr. Prout, Dr. Baxter explained that the worker had a recent exposure to gases/fumes at work following which the worker had complaints of dizziness, nausea, and memory and confusion issues. Dr. Baxter noted that, when discussing the matter with Poison Control, she was told that the worker's symptoms were atypical to the symptoms of others at the worksite. Dr. Baxter noted the worker was also concerned as her mother had had a history of early onset dementia. Dr. Baxter also reported the worker's pre-exposure history of diabetes and details of various knee surgeries.
- [20] In early December 2017, Dr. Baxter reported to the Board that the worker continued to have right, worse than left, eye irritation. The worker also reported that her throat was dry and irritated but her balance and cognitive function was slowly improving.
- [21] The worker's December 19, 2017 head CT scan was reported as normal.
- [22] A Board medical advisor and specialist in occupational medicine, Dr. Youakim, conducted an investigation of the October 2017 occupational exposures. Dr. Youakim provided a summary of the exposure information including the amount and the intensity of the exposures as documented by both a Board occupational health officer and a Board occupational safety officer. Based on these investigations, the exposure events were related to the problematic start-up of an evaporator system in the workplace starting in late September and into October 2017. Dr. Youakim reported that there was likely one main exposure event that occurred between October 9 and 12, 2017 and a second minor exposure occurring on October 17, 2017.⁷ Dr. Youakim's opinion included a graph of the symptoms reported by the workers affected on the days in question as well as the nature of the exposures as measured/quantified on those dates. Dr. Youakim stated that the emission was likely in the forms of contaminated water and foul condensates released during the running and shut down of the evaporator system. He considered it likely that some of the emissions entered the mill sewer system where it circulated around the mill, affecting workers in various parts of the mill. Workers were exposed by their inhalation of the fugitive emissions from the foul condensate components.

⁷ The worker was reportedly off work by the time of the apparent second exposure.

[23] Dr. Youakim documented that, based on his review of the first aid records, the predominant symptoms reported by the affected workers, in order of prevalence included: headaches, dizziness/light-headedness, nausea, throat irritation, fatigue, mentation problems, respiratory complaints, sinonasal complaints, and vomiting. Dr. Youakim said the aforementioned reported symptoms were consistent with exposure to fugitive emissions of foul condensate components including methanol, ethanol, methyl mercaptan, dimethyl sulphide, dimethyl disulphide, hydrogen sulphide, alpha and beta pinenes, acetone, methyl ethyl ketone, and guaiacol.

[24] Dr. Youakim reported that his investigation included, but was not limited to, interviewing each of the two clusters of workers affected by the October 2017 exposure. With respect to the worker directly, Dr. Youakim noted the following:⁸

The worker is a 49-year-old maintenance utility worker. On the worker report the date of exposure is given as October 9, 10 and 12, 2017. She reports being exposed to an unknown gas. She reports an odor that was different than normal while she was on a platform track at the mill. She left the area and worked nearby for the rest of the shift. At home she felt nausea, headache, and sore throat. She returned to work the next day. Occasionally she could smell the odor. She had a gas monitor all day which did not go off. Later at home she vomited. October 12, 2017 she was driving a forklift and smelled the odor again. She developed headache and vomiting at work. She was seen at first aid and left work early. She saw her physician Dr. Baxter October 13 (2017) and was given time off work. October 23 (2017) Dr. Baxter treated her with Gravol for dizziness.

[25] Dr. Youakim noted that at the time of the exposure(s), the worker had been working as a utility scaffolder assisting the carpenter. At that time of her interview, the worker advised Dr. Youakim of the nature of her exposures, the onset of her symptoms and the progression. The worker reported that she initially (October 10, 2017) felt dizzy, nauseous, had a headache, and had vomiting. The worker also reported that her eyes were weeping, the right worse than the left. The worker reported that, the following day (October 11, 2017), she felt lethargic, she continued having a headache, her throat felt raw, and her eyes were stinging. The following day (October 12, 2017), when she attended first aid, she smelt the odour of foul condensate on a co-worker who had worked in the area where the exposure occurred. As a result of smelling the odour, she vomited. The worker reported that by October 13, 2017 she was off work and had problems with mentation and doing simple tasks such as tying her shoes. Her headache and sore throat persisted. She was panicky and tearful and saw Dr. Baxter. The worker reported that currently (at the time of her interview by Dr. Youakim) her symptoms had improved but she had an ongoing headache, was fatigued, had a sore throat, and had discharge from her right eye and scratchiness in her left eye.

[26] In late January 2018, Dr. Baxter documented the worker's report of ongoing sensitivity in her right eye which specifically was causing the eye to tear when exposed to wind or bright light. The worker also reported that her throat remained sensitive to the cold. The worker reported that her vertigo symptoms and memory difficulties were improving.

⁸ All quotations reproduced as written in the original, unless indicated otherwise.

- [27] In February 2018, Dr. Baxter reported that, since her last visit, there had been no change in the worker's symptoms and the worker continued to complain of ongoing right eye symptoms including photophobia. The worker also reported hoarseness of her voice and cognitive difficulties.
- [28] In early to mid-April 2018, Dr. Baxter documented the worker's report of slightly improved eye symptoms. She was still having eye and throat issues. The sclera of her eyes got red and her eyes became puffy. Although she was not completely healed, she was interested in returning to work. The worker reported she continued to have "up and down days" and was still not driving due to her cognitive issues. The worker reported her throat symptoms were improving and she was now contemplating the possibility of returning to work.
- [29] On April 26, 2018, Dr. Baxter completed an employer's Functional Abilities Form noting that, but for her ongoing cognitive difficulties and specifically her reports of poor concentration and focus, the worker had no limitations or restrictions. Dr. Baxter noted that approval for the worker's potential to return to work would be provided, pending a further consultation with an ENT⁹ specialist.
- [30] In late April 2018, the worker was assessed by ENT/otolaryngologist Dr. Irvine. In his April 23, 2018 consultation report, Dr. Irvine documented the worker's report of ongoing symptoms since the exposure in October 2017, specifically including nausea and vomiting. The worker reported that, after the vomiting, she had developed a persisting sore throat causing intense throat pain and aggravated by the consumption of cold liquids and/or inhaling cold air. Dr. Irvine also documented the worker's report of cognitive difficulties – the worker reported there was an earlier incident when she forgot how to tie her shoes. Dr. Irvine said that the worker's persisting throat symptoms could be the result of an underlying GERD condition, as he expected that "any mucosal injury would have healed long ago". Dr. Irvine also prescribed a proton pump inhibitor (Tecta) to treat the worker's GERD symptoms and recommended she undergo a voice consultation.
- [31] In May 2018 reports to the Board, Dr. Baxter documented the worker's complaints of ongoing dizziness with movement, as well as her complaints of headaches and nausea. Dr. Baxter also reported the worker had developed a sensitivity to sunscreen.
- [32] On May 31, 2018, the worker was seen by neurologist Dr. Prout. Dr. Prout reported that, following his review of the Board's October 2017 exposure report, the worker's initial symptoms as reported were consistent with the symptoms of other workers affected by the exposure – specifically with respect to complaints of mucosal irritation and headaches and nausea. Dr. Prout said that the worker's subsequent, persisting, and ongoing symptoms were "quite unusual and exceptional seemingly in comparison to other workers". Dr. Prout noted the worker was assessed by both an ENT specialist as well as an ophthalmologist and that her acute symptoms, particularly her eye irritation, had settled. Dr. Prout stated: "She describes developing symptoms after the exposure that are quite dramatic with respect to her mental functioning." He noted the worker's report of difficulty with walking and incidents of stumbling, but also noted she reported that her sense of dizziness and possibly vertigo appeared to have largely settled. Dr. Prout thought that the pattern of the worker's speech and cognitive difficulties

⁹ Ear, nose and throat specialist.

seemed “atypical for an organic disorder” and he queried if the worker’s symptoms were associated with a psychological reaction to the exposure and its effects. He reported that her hearing and vision were full and normal and her facial sensation was intact. Dr. Prout concluded that the worker’s pattern of speech was not of a typical dysphasia (language disorder due to brain disease or damage) or dysarthria (slurred speech or speech disorder). He reported that her motor and sensory examination were normal. For completeness, Dr. Prout recommended the worker undergo an EEG and a brain MRI scan.¹⁰ He suspected the worker would otherwise fully recover from her reported symptoms, but suggested that, if she did not, a formal neuropsychological evaluation may be appropriate.¹¹ In a follow-up report, Dr. Prout stated that both the worker’s MRI scan and EEG results were normal. He reported there was no evidence of brain injury or physiological cause for the worker’s reported cognitive and varied symptoms.

[33] In mid-July 2018, at a joint appointment, the worker attended the provincial voice care resource program for a voice assessment and was seen by registered speech-language pathologist Ms. Rammage and laryngologist Dr. Hu. At the time of her assessment with Ms. Rammage, the worker reported that since the exposure injury she had intermittent voice loss for up to a few minutes at a time. She also reported throat pain brought on by the use of chemicals, such as those contained in cleaning agents. She reported her throat symptoms were aggravated when she consumed cold fluids. The worker reported her voice loss incidents were now less frequent. Ms. Rammage noted the worker had a mildly harsh voice quality and a slow speaking rate. Ms. Rammage noted that, despite attempts to trigger the worker’s voice symptoms at assessment, there were no incidents of voice loss during the evaluation. The worker was also assessed by Dr. Hu. Dr. Hu documented the worker’s report that at the time of the October 2017 exposure she vomited and then developed a sore throat with associated hoarseness and intermittent voice loss. Dr. Hu reported that examination revealed the worker had post cricoid and arytenoid edema consistent with chronic laryngitis resulting from laryngopharyngeal reflux disease. Dr. Hu considered the worker may have developed ILCSS, and she recommended the worker continue on the proton pump inhibitor medication prescribed to her by Dr. Irvine. Dr. Hu reassured the worker that her symptoms would improve with time.

[34] Based on my review of the various Board claim log memorandums, the worker spoke by telephone to the Board officer on several occasions, during which time the worker endorsed post-exposure symptoms of ongoing throat difficulties, vertigo/imbalance problems which were most especially aggravated when she was inside a vehicle or riding on a ferry, various cognitive difficulties, and eye symptoms with particular sensitivity to wind and bright sunlight. The worker also reported involuntary closure of her eyes which, when combined with her vertigo symptoms, continued to pose a safety risk thus precluding her from driving. The worker also reported she had not driven since the October 2017 work exposure.

¹⁰ Both the EEG and brain MRI scan were reported as normal.

¹¹ Disclosure of the worker’s Board claim file shows the Board eventually arranged for the worker to undergo a neuropsychological assessment. Because the assessment was conducted for the purposes of ascertaining whether the worker sustained a psychological injury as a result of the October 2017 exposures, I have not considered it necessary to outline the contents here.

- [35] In July 2018, Dr. Baxter reported the worker continued to be disabled due to her reported eye and throat issues. In late August 2018, Dr. Baxter noted the worker had requested a referral to a dermatologist, reporting that the skin around her eyes was red and cracked. In mid-September 2018, Dr. Baxter noted the worker's report that the burning and cracking skin around her eyes was triggering the onset of headaches and nausea. The worker reported that, overall, her cognition had improved. She also reported she was now seeing a dietician and participating in nutrition counselling.
- [36] On September 24, 2018, Dr. Youakim wrote a clinical opinion specifically addressing the ongoing nature of the worker's symptoms. Dr. Youakim reiterated that, while many of the affected workers initially endorsed the same symptoms (headaches, nausea, sore throat, dizziness, and increased sleep), only the worker and a few others initially reported vomiting and/or eye symptoms. Dr. Youakim reported that the vast majority of the affected workers reported symptom improvement within two weeks, whereas the worker continued to complain of ongoing symptoms even months later. Dr. Youakim said the worker's ongoing symptoms were unexplainable. He reported that the concentration and duration of emissions as measured were not expected to cause cognitive dysfunction or result in persisting eye irritation for the prolonged period as reported by the worker.
- [37] Dr. Youakim also reported that during his interview with the worker in January 2018 she seemed quite anxious and distressed by the exposure event.¹² Dr. Youakim said he had explained to her that a disproportionate fear of serious injury inconsistent with the exposure could result in undue distress and related anxiety symptoms that could manifest as a variety of problems, including cognitive dysfunction.
- [38] Dr. Youakim concluded that the worker's ongoing eye irritation symptoms and blepharitis, her dermatological conditions including sensitivity to sunscreen, laryngopharyngeal reflux, and/or GERD were not related to the workplace exposure. He explained that reflux could also result in an irritable larynx and GERD. He considered that, while Dr. Irvine had concluded the worker's throat symptoms were possibly due to GERD, Dr. Irvine had also specifically explained that any mucosal injury resulting from the exposures would have healed long ago. Dr. Youakim also noted that the worker was examined and assessed by Dr. Prout who considered the worker's symptoms, especially respecting the effects of the exposure on the worker's mental function, were quite dramatic. Dr. Prout had documented the worker's reports that, in the days following the exposure, she felt that her brain had shut down and she had difficulty with even the basic activities of daily living including tying her shoelaces, remembering ingrained activity, and with long-term memory recall. The worker also reported she had difficulty with walking and that she was stumbling due to motion sensitivity as well as in response to various other stimuli. Dr. Youakim noted that the worker, when examined by Dr. Prout, looked well and had the ability to provide a clear history but Dr. Prout had noted that her speech was slow and strained sounding. Dr. Prout had also concluded that the worker's presentation was not consistent with a typical dysphasia or dysarthria.
- [39] Dr. Youakim noted in part that, while Dr. Hu had also diagnosed the worker with ILCSS, such a diagnosis was unproven and had never been demonstrated as valid. Dr. Youakim explained that ILCSS was simply a hypothesis to explain why people had vocal cord dysfunction symptoms.

¹² As noted by the review officer, Dr. Youakim interviewed the worker in January 2018.

Dr. Youakim said that if the worker had irritable larynx syndrome, it was undoubtedly related to her chronic laryngopharyngeal reflux disease and not to her workplace exposure, as the latter would not explain the ongoing nature of her symptoms.

- [40] In early October 2018, Dr. Baxter documented the worker's report that she was feeling better since her diet change, her throat symptoms had improved, and she now felt more capable of returning to driving. In the later part of October 2018, Dr. Baxter reported the worker's eye symptoms were recently aggravated due to the weather change. The worker also reported persisting throat symptoms.

- [41] On October 31, 2018, the worker was seen by dermatologist Dr. Scali. The worker reported that at the time of the exposure she was wearing coveralls and gloves and her face was the only area exposed. She also reported that following the exposure her facial skin had become particularly sensitive – specifically, her skin was redder than normal, she had cracks around her eyes, and she had developed sensitivity to creams and cosmetics. The worker informed Dr. Scali that she had no skin problems prior to the exposure. Dr. Scali reported that the worker's skin barrier looked well-preserved but that the worker had symptoms relating to rosacea, which could lead to burning. Dr. Scali prescribed for the worker a trial of skin care products for sensitive skin and nightly topical application of MetroGel, and reported he would see her again in three months. Dr. Scali reported that, on the day of the assessment, the skin around the worker's eyes was normal.

- [42] In mid-November 2018, Dr. Baxter noted the worker's report that the cream prescribed by Dr. Scali had caused a reaction resulting in her eyes becoming swollen shut. The worker also reported having a similar reaction from the cream to her vocal chords.

- [43] In March 2019, Dr. Baxter reported the worker continued to endorse headaches, sleep difficulties, psychological issues, and skin sensitivity. In April 2019, Dr. Baxter reported the worker remained disabled from work due to her "skin, eyes, emotions".

- [44] In submissions to the Review Division, the worker argued that, given she had no symptoms prior to the October 2017 exposure injury, it followed that the symptoms she developed after the October 2017 exposures, and were ongoing, were compensable.¹³ The worker argued that the specific nature of her employment duties caused her to be appreciably more exposed than other workers as she was working in close proximity to the "hot spots". The worker argued that, since the injury, her private insurance carrier, and not the Board, had been extremely supportive of her ongoing symptoms. Due to assistance she received from the private insurance carrier, she was now had access to an occupational therapist to help her manage her difficulties with the activities of daily living. She was also seeing a psychologist to assist her to recover from her brain injury. The worker further argued that Dr. Baxter supported her disability and the Board had no basis to conclude the payment of her temporary disability (wage-loss) benefits.

- [45] The review officer denied the worker's request for review. The review officer considered that, while the worker had consistently reported cognitive difficulties, the etiology of the difficulties remained unexplained. The review officer relied on Dr. Youakim's opinion that it was not biologically plausible that the worker's exposure would produce or result in any prolonged

¹³ At the time of her request for review to the Review Division, the worker was represented by her union.

“mentation” issues. The review officer also considered that, while the Board accepted the worker’s eyes were “irritated” by the exposure, Dr. Nelson found no identifiable eye pathology (apart from mild blepharitis, unrelated to any sensitivity from the exposure) for the worker’s ongoing complaints including her eye sensitivity to cold, wind and light, or for the ongoing headaches and motion-induced nausea.

- [46] The review officer also relied on Dr. Youakim’s opinion to find that the worker’s reported GERD and ILCSS complaints were not attributable to the October 2017 workplace exposure. The review officer considered that the worker’s irritable larynx (i.e., the throat symptoms), which was consequential to the GERD, was also not related to the worker’s October 2017 exposure.
- [47] The review officer also denied acceptance of the worker’s skin issues, including the red and cracking skin around the eyes as documented/reported by Dr. Baxter in August 2018. The review officer noted that the symptoms, as reported, developed almost a year after the October 2017 exposure. The review officer also concluded that the rosacea diagnosed by Dr. Scali in August 2018 could not be attributed to the exposure some ten months earlier. The review officer considered that the specific concern of redness/cracking skin around the eyes was not something that was identified at the time of, or proximate to, the October 2017 exposure injury.
- [48] The review officer concluded with the following, in part:

...Accordingly, and while the worker continues to have various symptoms, which are similar to what was felt after the exposure (and accepted by the Board), a close analysis of the cause of such symptoms many months after the effects of the exposure should have ended, suggests that the ongoing symptoms are consequential to causes other than the gas exposure at work. The Board medical advisor and other doctors have indicated that it is unclear why the worker’s symptoms persisted, unlike most of her colleagues. These alternative medical explanations for the cause of symptoms beyond September 30, 2018 is consistent with the exposure related symptoms having resolved, with the issues and symptoms thereafter being the result of other known (or unknown) causes.

Submissions to WCAT

- [49] The worker submitted that she remained temporarily disabled by the October 2017 exposures, and that she was entitled to the payment of temporary disability (wage-loss) benefits beyond September 30, 2018.
- [50] With an August 2019 written submission, in support of her appeal, the worker provided copies of documents submitted to her private insurance carrier including copies of a December 12, 2018 return-to-work occupational therapy assessment report and a March 14, 2019 progress report, regarding a November 27, 2018 occupational therapy assessment. The worker also attached a copy of a February 4, 2019 consultation report of psychologist Dr. Grant and a copy of a July 5, 2019 letter from Dr. Baxter. In her July 5, 2019 letter, Dr. Baxter said that the worker’s October 2017 exposure caused redness and swelling to the worker’s eyelids, face, and external ears. Dr. Baxter said that, due to the exposure, the worker had been unable to drive as she suffered from eye issues, vertigo, and headaches. Dr. Baxter reported the worker did not

experience vertigo, headaches, or swallowing issues prior to the exposure. Dr. Baxter said the worker had been extremely compliant with her care plan and, as such, many of the worker's symptoms had greatly improved but her skin and eye sensitivity persisted.

- [51] In an October 15, 2019 submission, the worker wrote that the October 2017 exposure had resulted in headaches, motion sickness, face and eye nerve pain, as well as cognitive issues. Her ongoing symptoms had adversely affected her and her family. The worker said that, while her condition had not yet plateaued, she had made gains in her recovery and her brain function had recovered. She requested that, to assist her with her appeal, WCAT arrange for an assessment with an independent health professional (IHP).
- [52] The worker explained that she enjoyed her pre-injury job. She also explained that it seemed she was far more affected by the exposure than her co-workers. She noted that she was the closest in proximity to the exposures, the first to leave the worksite, and the only worker who had violently vomited at the site. The worker said she believed she was the only worker still off work. She explained that since the October 2017 exposure she had developed a chemical sensitivity now resulting in her inability to tolerate swimming in chlorinated pools or being in the vicinity of chemical environments or sites. The worker explained that she felt the Board was punishing her for something she had no control over and that these actions had affected her mental health and her ability to heal from her injuries. She argued that her doctor, her psychologist, her occupational therapist, the employer, the private insurance carrier, as well as her friends and her family were supportive of her recovery. She hoped that her appeal would result in the Board being supportive and assistive to her as well.
- [53] The worker enclosed an August 19, 2019 letter from Dr. Baxter wherein Dr. Baxter recommended the worker be assessed by a neuropsychologist for "post toxic exposure symptoms". The worker also enclosed a September 26, 2019 letter from Dr. Baxter stating that the worker's symptoms in the last two years were caused by the October 2017 workplace exposure. Dr. Baxter explained that, prior to the October 2017 exposure, the worker never discussed skin, eye, or cognitive issues.
- [54] In a June 4, 2020 submission, worker's counsel reiterated the worker's earlier request that WCAT exercise its discretion and seek the assistance and opinion of an IHP. Counsel argued that the matter at appeal was complex and included significant conflicting evidence which required further consideration.
- [55] The worker's counsel requested a finding that the worker's compensable conditions had not resolved or, in the alternative, a finding that the worker's symptoms were now permanent entitling the worker to a referral to the Board's Disability Awards Department and Vocational Rehabilitation Services. Counsel argued that Dr. Baxter's July 5, 2019, August 9, 2019 and September 26, 2019 letters provided "clear, unequivocal clinical opinion" that the worker's ongoing symptoms were directly the result of the October 2017 exposure event. Counsel argued that, as the worker's direct treatment provider, Dr. Baxter's opinion was worthy of significant weight.

- [56] Counsel also referenced *British Columbia (Workers' Compensation Appeal Tribunal) v. Fraser Health Authority*, 2016 SCC 25.¹⁴ Counsel submitted that the worker was entitled to further temporary disability (wage-loss) benefits beyond September 30, 2018, or, in the alternative, a finding that her reported conditions were permanent.
- [57] The worker's counsel argued that Dr. Youakim's medical opinion was not reliable because Dr. Youakim had not appreciated whether the worker's exposure was much greater or for a longer duration than that of the other workers. Counsel also argued that, in any event, it was not reasonable for the Board to expect that one worker's reaction to a complex and toxic substance would be identical or even similar to another worker's. Counsel argued that the evidence supported that the worker's symptoms began directly after the exposure incident. Counsel also argued that, given the worker's symptoms had yet to resolve, the October 2017 exposure continued to be the cause of the worker's ongoing symptoms.
- [58] On July 20, 2020, the worker's counsel provided a written submission and enclosed a letter dated July 19, 2020 from occupational and public health consultant Ms. Keefe. Counsel argued that Ms. Keefe's research and findings established the worker's ongoing symptoms including vertigo, eye sensitivity, ongoing throat irritation, photosensitivity, forgetfulness, memory difficulties, and recall issues were attributable to the October 2017 exposures. Counsel argued that Ms. Keefe's report supported that the potential sequelae of the sulfur compounds present during the workplace exposure included:
- late developing inflammation of the bronchi;
 - psychological disturbance;
 - permanent damage to the brain and heart;
 - cornea scarring;
 - neurologic deficits.
- [59] The worker's counsel also argued that some of the studies cited by Ms. Keefe revealed that the outcome of acute exposures could be variable and, specifically, that symptom onset and recovery disparity varied amongst workers. Counsel argued that it was as likely as not that the worker's ongoing symptoms were the result of her October 2017 exposure to sulfur compounds present in foul condensates.

¹⁴ I am mindful that a Supreme Court of Canada decision (*British Columbia (Workers' Compensation Appeal Tribunal) v. Fraser Health Authority*, 2016 SCC 25) discussed how causation can be inferred from the evidence. At paragraph 38 of the decision, the court discussed that the presence or absence of opinion evidence from an expert regarding causation is not determinative. It is open to a trier of fact (i.e., WCAT) to consider other evidence in determining whether it supported an inference that a worker's condition (in that case, cancer) was caused by the employment. The court noted that causation can be inferred even in the face of inconclusive or contrary expert evidence, from other evidence, which includes merely circumstantial evidence. I consider that *Appeal Division Decision #2002-0146* (18 W.C.R. 113) contains a useful discussion of causation and Board policy. That case notes that the issue of whether employment is of causative significance is assessed by determining if the employment's contribution is greater than *de minimis* (of trifling consequence or importance; too insignificant to be worthy of concern). There is no requirement in law or policy that work be the only causative factor or the most significant causative factor. I am aware that the test is not scientific certainty.

- [60] At the outset of her July 19, 2020 letter, Ms. Keefe clarified that, because she was not a (medical) clinician, she was unable to comment on the worker's diagnosis, the worker's ongoing symptoms, or the Board medical advisor's opinion.¹⁵ Ms. Keefe said she could, however, provide an opinion on the nature of the worker's exposure and symptoms.¹⁶ Ms. Keefe noted that the Board had already deemed that the short-term effects the worker experienced were compensable. She noted that, in some exposure cases, workers could also experience persistent long-term neurological effects.
- [61] Ms. Keefe referred to research studies and provided an outline on the chronic and acute side-effects of exposures to hydrogen sulfide and methyl mercaptan. Ms. Keefe explained that acute exposures were known to cause eye, nose and throat irritation. In some individuals, there could be permanent or long-term effects including headaches, poor attention span, poor memory, and poor motor function. Methyl mercaptan acute exposures could additionally cause dermatitis, dizziness, as well as gastrointestinal effects and nausea and vomiting.
- [62] Ms. Keefe reported that research (which, based on her letter, meant case studies) indicated that workers who experienced acute over-exposure to hydrogen sulfide reported immediate impacts as well as immediate and significant long-term impacts. These included but were not limited to: slow speech, persistent impairment with memory and motor function, moderate to severe memory and motor function, and moderate to severe attention and concentration deficits. Ms. Keefe also reported that case studies also indicated that some individuals went on to experience persistent long-term neurological effects, including cognitive impairment, and persistent eye and skin problems. Ms. Keefe reported that, after acute exposure, injury to the central nervous system was immediate and significant.

Analysis and Findings

- [63] As a preliminary matter, I find it is not necessary to exercise my discretion to request an IHP opinion. I find there is sufficient medical evidence available in the record to decide the appeal. I am also cognizant that there is no requirement in law or policy that work be the only causative factor or the most significant causative factor. I am aware that the test is not scientific certainty (*British Columbia (Workers' Compensation Appeal Tribunal) v. Fraser Health Authority*, 2016 SCC 25, [2016] 1 S.C.R. 587, at paragraph #32).

Entitlement to temporary disability (wage-loss) benefits beyond September 30, 2018 in relation to the temporary disability/symptoms including dizziness, headaches, nausea, vomiting, and eye and throat irritations accepted under the October 2017 claim

- [64] I deny the worker's appeal. I find that the worker's accepted temporary disability/symptoms as accepted were not temporarily disabling beyond September 30, 2018. I have assessed the available evidence concerning the worker's objective and subjective findings with reference to

¹⁵ Ms. Keefe has a Bachelor of Science degree in chemical engineering and a Master of Science degree in occupational hygiene.

¹⁶ Although Ms. Keefe reported that the worker may have been exposed to chronic low-level exposure to some of the reduced sulfur gases which may have resulted in neurological symptoms, I note that whether the worker had chronic exposure (meaning long-term) is not before me in this appeal and that, as such, I will not at all address or deliberate that here.

any entitlement to additional temporary disability benefits to arrive at my conclusions below on where the weight of the evidence lies or if the evidence supporting different findings on an issue is evenly weighted. Having done so, I find the weight of the evidence is sufficient to conclude the worker was not temporarily disabled as a result of her accepted temporary disability/symptoms after September 30, 2018. My reasons follow.

- [65] Subsection 136(1) of the Act states that the Board will compensate a worker who suffers from an occupational disease if the disease disables the worker from earning full wages and the disease is due to the nature of the worker's employment.
- [66] Sections 190 to 193 of the Act provide that if a worker is temporarily totally or temporarily partially disabled respectively, then the Board will pay compensation.
- [67] The Board's policies at Chapter 5 of the RSCM II apply to this appeal, specifically including policy items #34.10, #35.30 and #34.54. For the purposes of these policies, "temporary" refers not to the duration of the compensable condition but, instead, to its status. A temporary disability is characterized by changing symptoms or a likelihood that treatment would have an effect on the course of the injury. Policy item #35.34 provides that the Board will terminate temporary total or temporary partial disability (wage-loss) benefits under section 191 of the Act once the worker's temporary disability ceases. A temporary disability ceases when it either resolves entirely or stabilizes as a permanent impairment.
- [68] The effect of the aforementioned law and policy is that the worker's entitlement to temporary disability benefits will cease if the worker's compensable condition resolves or stabilizes without resolving. This is so even if a worker does not return to work or is considered unable to return to work, as wage-loss benefits are only paid for a temporary disability that results from the compensable condition or disability. Furthermore, wage-loss benefits are only paid for conditions accepted under the claim.
- [69] Board policy at item #97.00 of the RSCM II provides that, while there is no burden of proof on the worker, the Act contains prerequisites for benefits. Policy item #97.32 provides that the statement of a worker about his or her own condition is evidence insofar as it relates to matters that would be within the worker's knowledge. The policy also provides that a conclusion against the statement of the worker about his or her own condition may be reached if the conclusion rests on a substantial foundation, such as clinical findings, other medical or non-medical evidence, or serious weakness demonstrated by questioning the worker.
- [70] In this matter, the fact that the worker had not returned to work by September 30, 2018 is not entirely determinative of whether she is entitled to the payment of further temporary disability (wage-loss) benefits. The Board accepted that, by reason of the October 2017 exposure events, the worker developed temporary symptoms including dizziness, headaches, nausea, vomiting, and eye and throat irritation. The Board granted the worker temporary disability (wage-loss) benefits which continued until September 30, 2018, at which time the Board found that the worker's symptoms could no longer be attributable to the temporary conditions accepted under the claim. The potential continuation of symptoms and medical investigations do not, in isolation, confirm that temporary disability benefits for a compensable injury are still to be paid. I find that there is reasoned evidence from the various medical practitioners who have assessed

and treated the worker that the worker's compensable temporary symptoms would have resolved.

- [71] I have closely considered Dr. Baxter's medical reports to the Board, starting from the time of the exposures up to and after the Board concluded the payment of the worker's temporary disability (wage-loss) benefits. In my deliberations, I have also considered Dr. Baxter's letters of April 2019, July 2019, August 2019 and September 2019. I note that, in her April 2019 letter, Dr. Baxter reported the worker remained disabled by reason of her skin and eye issues as well as for emotional reasons. In the letters submitted to the Review Division of the Board and on appeal to WCAT, Dr. Baxter reports that the worker has ongoing complaints relating to her skin and eyes as well as some cognitive issues, even after the Board terminated the worker's temporary disability (wage-loss) benefits. While I appreciate that the worker reports ongoing complaints, I find the medical evidence, and particularly the assessments of the various specialists who assessed and examined the worker, are not supportive that the worker's ongoing symptoms were caused, even in part, by the worker's October 2017 occupational exposures.
- [72] I acknowledge that Dr. Baxter, in her capacity as the worker's attending physician, supports the worker's assertion that her ongoing symptoms were caused by her October 2017 exposure to toxic fumes at the work site. However, I consider that Dr. Baxter's conclusion is seemingly based on the timing of the onset of the worker's symptoms at the time of the October 2017 exposure, but it appears to be without full consideration of the factors noted by the other specialists who have assessed and treated the worker. Given the thorough examination of the circumstances of this worker by Dr. Youakim and given his well-explained opinion, I am more persuaded by Dr. Youakim's conclusion. I consider Dr. Youakim's clinical opinion is consistent with those of the other specialists who assessed and treated the worker.
- [73] The worker's counsel argues the evidence supports that the worker's exposure-related symptoms only began after the October 2017 exposure and that, because the worker's symptoms had not resolved by the time the Board concluded the worker's temporary wage-loss benefits, it followed that the October 2017 exposure was the cause of the worker's ongoing symptoms. While I accept that there appears to be a temporal connection because of the ongoing nature of the worker's symptoms, which reportedly started after the October 2017 exposure, the evidence does not sufficiently persuade me that there is a causative connection most especially for the ongoing nature and type of symptoms. Put differently, while it is undisputed that the October 2017 exposure was initially anticipated to result or cause temporary symptoms, there is insufficient persuasive evidence to establish that the October 2017 exposure was of causative significance to the worker's ongoing symptoms. I concur with the review officer that, while the worker continues to have various symptoms that are similar to what she experienced after the October 2017 exposure, a more precise analysis of the cause for such symptoms, many months after the effects of the exposure ought to have resolved, suggests that the ongoing symptoms are more likely consequential to other unrelated causes which are not accepted under the claim.
- [74] Approximately one month after the October 2017 exposure event, the worker was assessed by Dr. Nelson for her reports of eye sensitivity and irritation and specifically to rule out any ocular pathology secondary to the October 2017 exposure. He opined that there was no ocular pathology to explain the worker's reported vertigo and nausea symptoms. He also reported that

the worker's examination was otherwise normal, with no evidence of any established injury to the eyes from the exposure. Dr. Nelson concluded the worker had mild bilateral blepharitis (eyelid inflammation) which he explained could give rise to non-specific symptoms such as itchy/scratchy eyes. I find insufficient evidence to suggest that Dr. Nelson attributed the worker's mild bilateral blepharitis symptoms to the October 2017 exposure injury. Even if I am wrong on that account, I also note that a few months later, when assessed Dr. Prout, the worker's report of acute eye irritation symptoms were reported to have resolved. Dr. Prout found no physiological basis for the worker's reported cognitive symptoms. Dr. Prout commented that the pattern of the worker's speech and cognitive difficulties seemed "atypical for an organic disorder". Dr. Prout also concluded that the worker's pattern of speech was not of a typical dysphasia (language disorder due to brain disease or damage) or dysarthria (slurred speech or speech disorder). He reported that her motor and sensory examinations were normal, and he later reported that an MRI scan and EEG were also normal.

[75] Dr. Irvine documented the worker's report of ongoing nausea and vomiting symptoms since the exposure in October 2017. The worker reported that she had developed a persisting sore throat causing intense throat pain and aggravated by the consumption of cold liquids and/or inhaling cold air. Dr. Irvine attributed the worker's persisting symptoms to an underlying GERD condition, specifically explaining that any mucosal injury resulting from the October 2017 exposures would have healed long ago. Dr. Irvine prescribed a proton pump inhibitor for the worker, to assist with her GERD symptoms.

[76] I have also considered the reports of Ms. Rammage and Dr. Hu. Ms. Rammage reported that despite her attempts during her assessment of the worker to trigger the worker's reported voice symptoms, there were no incidents of voice loss during her evaluation. Dr. Hu considered the worker may have developed ILCSS although she does not in her report comment on causation or how such conditions were expected to develop following the October 2017 exposure. In addition, Dr. Hu recommended the worker continue on the proton pump inhibitor GERD medication prescribed to her by Dr. Irvine. Dr. Hu also reported she reassured the worker that her symptoms would improve with time.

[77] I have also considered the information contained in Ms. Keefe's report. Ms. Keefe said that case studies indicated that some workers who experienced acute "over-exposure" to hydrogen sulfide reported both immediate impacts as well as significant long-term neurological effects and that injury to the central nervous system was immediate and significant. While I appreciate the information provided in Ms. Keefe's report, I note that she relies on her references to case studies rather than medical research, the latter which I consider to be more reliable in terms of establishing causation, and respecting the possible types and duration of symptoms associated with exposure incidents. I also consider that Ms. Keefe does not directly address the nature and duration of the worker's exposure. In addition, Ms. Keefe also conceded that she is not a clinician and that she was unable to comment on the worker's diagnosis and her ongoing symptoms or on Dr. Youakim's opinion. So while I appreciate Ms. Keefe's report for the information it provides, I prefer and rely on Dr. Youakim's opinion in rendering my findings.¹⁷

¹⁷ The WCAT's *Manual of Rules of Practice and Procedure* at item #11.6 provides a WCAT practice directive that "expert opinion evidence will only be accepted from a person the panel finds to be qualified by education, training, or experience as an expert in the field or discipline in which they are giving their opinion", with respect to causation.

- [78] While the worker continued to report symptoms of dizziness and eye and throat irritation, I rely on Dr. Youakim's clinical opinion, as outlined extensively above and which I further consider also accords with the opinions of Drs. Nelson, Irvine, Prout and Hu, that the worker's compensable symptoms by reason of the October 2017 exposure had resolved.¹⁸ I consider it significant that Dr. Youakim has extensive expertise in occupational medicine and that he directly addressed the medical questions material to the issues on appeal and in relation to the worker's specific exposure on the days in question. In this case, I find the cause of the worker's ongoing symptoms is a medical issue and, therefore, not a matter within the worker's knowledge, as contemplated by Board policy at item #97.32 of the RSCM II. I have ultimately found the medical evidence does not support the worker's belief that her ongoing symptoms are related to the October 2017 exposures.
- [79] I also acknowledge worker's counsel's arguments that the worker's exposure may have been far greater and/or of a longer duration than that of her co-workers, thus delaying her recovery. Certainly, while I appreciate this may be a pertinent factor and I accept counsel's argument that it is reasonable that individuals may have varying responses to stimuli, I note that Dr. Youakim specifically considered the nature and extent of the worker's exposure in addressing her ongoing symptoms. Further, that the Board appreciated the worker's recovery was protracted is evident by the fact that the worker was granted temporary disability (wage-loss) benefits for an extended period of almost 12 months while she was undergoing further assessments relating to her reported symptoms. I also consider it significant that, in an early October 2018 progress report to the Board, Dr. Baxter wrote that the worker was feeling much better and that she was overall improved. Dr. Baxter also documented the worker's report that she considered herself well enough to contemplate returning to driving. Dr. Baxter's October 2018 progress reports supports the Board's finding that the worker's temporary disability had resolved.
- [80] I also do not consider that the evidence supporting different findings on this issue is evenly weighted. Accordingly, I find that the worker was not entitled to the payment of temporary disability (wage-loss) benefits beyond September 30, 2018.
- [81] I also conclude the available evidence does not support there were sufficient changes in the worker's symptoms after September 30, 2018 that, in my view, would indicate an ongoing temporary disability related to the October 2017 exposure where a change was reasonably foreseen in the immediate future, as required by policy item #34.10 of the RSCM II. Rather, I consider the medical evidence to support that the worker's temporary disability had resolved by September 30, 2018.
- [82] In summary, I find that the worker was not temporarily disabled by her compensable symptoms (including dizziness, headaches, nausea, vomiting, and eye and throat irritation), resulting from the October 2017 occupational exposure. As such, I concur with the Board and the review officer's findings that she was not entitled to temporary disability (wage-loss) benefits in relation to the temporary conditions accepted under the claim subsequent to September 30, 2018. It follows that I find the worker's temporary disability, as accepted, had resolved.

¹⁸ To be clear, I make no finding here with respect to whether a psychiatric/psychological condition is/was responsible for the worker's cognitive issues or whether such a condition is compensable under the worker's October 2017 claim.

[83] I deny the worker's appeal in this regard.

Compensability of reported cognitive issues, skin symptoms, eye sensitivity, GERD, and ILCSS

[84] In analyzing the causation issue, I must apply relevant law and Board policies which are sufficiently outlined in both the Board and the Review Division decisions. The policies are set out primarily in Chapter 4 of the RSCM II, and include policy items #C4-25.20, #26.20, and #26.23. The facts, law and policy are assessed on the balance of probability, except that, if the evidence on any issue is evenly weighted, the issue must be resolved in the worker's favour.¹⁹

[85] Policy item #C3-22.00 of the RSCM II deals with compensable consequences of work injuries. Even though the policy refers to injuries, it is similarly applicable to the consequences of diseases. The policy provides that, once it is established that an injury arose out of and in the course of a worker's employment, the question arises as to what consequences of that injury are compensable. The minimum requirement before one event can be considered as the consequence of another is that it would not have happened but for the other. The policy explains that not all consequences of work injuries are compensable. The decision-maker must look at the matter broadly and from a "common sense" point of view and then determine whether the work injury was of causative significance in the further injury such that the further injury is sufficiently connected to the work injury and forms an inseparable part of the work injury.

[86] I do not doubt the worker's sincerity in her belief that all of her symptoms including her cognitive issues, eye sensitivity, GERD, ILCSS, and dermatological issues, the latter of which I consider encompasses the rosacea diagnosed by Dr. Scali approximately one year after the October 2017 exposure event, and her disability are due to the conditions for which she is claiming compensation, and that her work exposure in October 2017 was of causative significance in the development of those conditions and her disability. I acknowledge the worker's description of the severity of her symptoms and do not question the profound impact she reports they have had on her life; however, but for a temporal effect, which in this case is not in itself sufficient, the medical evidence before me does not support a causal link between the worker's symptoms including the cognitive issues, skins symptoms, eye sensitivity, GERD and ILCSS and the October 2017 exposure incident. Nor do I find that the worker developed these symptoms as a compensable consequence of her accepted October 2017 temporary disability/symptoms which I found, above, had resolved when the Board terminated the worker's temporary disability (wage-loss) benefits on September 30, 2018.

[87] As I provided above, Dr. Prout reported that the worker's motor and sensory examination were normal, and later reported that both an EEG and a brain MRI scan were normal. Dr. Prout found no evidence of brain injury or cause for the worker's reported and varied cognitive symptoms.

[88] While Drs. Irvine and Hu considered that the worker's throat symptoms could be related to GERD and irritable larynx syndrome, neither doctor attributed the conditions or symptoms to be the result of the October 2017 occupational exposure. While I acknowledge the worker's evidence that she did not have eye and skin issues, throat symptoms, or reflux symptoms prior

¹⁹ The Board's previous relevant policies on causation were amalgamated into policy item #C4-25.20. These changes have no impact on my analysis in this decision.

to the October 2017 exposure, I do not consider a lack of prior symptoms automatically means the condition directly relates to the workplace exposure (or the other conditions accepted under the claim). I also acknowledge that Dr. Hu contemplated that the worker's symptoms may be attributable to central sensitivity syndrome, but I find insufficient persuasive medical evidence supporting that central sensitivity syndrome was related to the compensable occupational exposure, or any of the compensable temporary disability/symptoms accepted under the worker's claim.

[89] I have also noted Dr. Youakim's clinical opinion wherein he explained that while GERD could result in irritable larynx syndrome, GERD was not exposure related. He also commented that central sensitivity syndrome is an unproven diagnosis which has never been demonstrated as valid but rather that it is simply a hypothesis to explain why people have vocal cord dysfunction symptoms.²⁰

[90] In workers' compensation law, the test for compensability is causative significance. The occupational exposure need not be the sole or even the predominant cause of the disability—it needs only to be of causative significance. Having carefully considered the evidence on causation in this case, I find that it is not of at least equal weight in favour of work causation. Therefore, based on the evidence before me, I must conclude that the worker's cognitive issues, skin symptoms, eye symptoms, GERD, and ILCSS were not causally related to the October 2017 exposure events. However, should any additional conditions be accepted under the claim in the future (such as a psychological condition), I leave it open to the Board to adjudicate whether any of the conditions that I have denied are part of and/or are compensable consequences of that new condition.

Conclusion

[91] I deny the worker's appeal and confirm the May 27, 2019 Review Division decision (*Review Reference #R0245431*).

[92] I find the worker is not entitled to temporary disability (wage-loss) benefits beyond September 30, 2018 in relation to the temporary disability/symptoms accepted, including dizziness, headaches, nausea, vomiting, and eye and throat irritation, under the October 2017 workplace exposure claim. I find the accepted symptoms had resolved.

[93] I find the other conditions, specifically the worker's reported cognitive issues, skin symptoms, and eye sensitivity, GERD, and ILCSS are not compensable.

[94] As noted above, should any additional conditions be accepted under the claim in the future (such as a psychological condition), I leave it open to the Board to adjudicate whether any of the conditions that I have denied are part of and/or are a compensable consequence of that new condition.

²⁰ As noted previously, the compensability of a psychological condition relating to the October 2017 exposures is not before me in this appeal. However, should any additional conditions be accepted under the claim in the future (such as a psychological condition), I leave it open to the Board to adjudicate whether any of the conditions that I have denied are part of and/or are compensable consequences of that condition.

- [95] There has been no request for reimbursement of appeal expenses, and none are apparent. Therefore, I make no order in that regard.

Shelina Shivji
Vice Chair