

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

<b>JEREMY OGDEN</b>	)	
Claimant	)	
VS.	)	
	)	Docket No. 1,003,938
<b>GENERAL PET SUPPLY</b>	)	
Respondent	)	
AND	)	
	)	
<b>ST. PAUL FIRE &amp; MARINE INSURANCE COMPANY</b>	)	
Insurance Carrier	)	

**ORDER**

Claimant appeals the June 26, 2002 Order of Administrative Law Judge Jon L. Frobish. The Administrative Law Judge found that the Order/Motion [sic] To Withhold appeared valid on its face and denied claimant's request for reimbursement of the temporary total which had been withheld pursuant to K.S.A. 44-514.

**ISSUES**

- (1) Did the Administrative Law Judge exceed his jurisdiction by determining that the Order/Motion [sic] To Withhold appeared valid on its face, therefore, denying claimant's request for reimbursement of temporary total disability compensation, which had been withheld pursuant to K.S.A. 44-514(b)?
- (2) Does the Appeals Board (Board) have the jurisdiction to determine this issue at this time?

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Based upon the evidence presented and for the purposes of preliminary hearing, the Board finds that it does not have jurisdiction to review this matter at this time, and claimant's appeal should be dismissed.

K.S.A. 44-534a and K.S.A. 2001 Supp. 44-551 limit the right of the parties to appeal from preliminary hearing orders. Under K.S.A. 44-534a, specific issues which can be appealed include whether the employee suffered an accidental injury, whether the injury arose out of and in the course of the employee's employment, whether notice is given or claim timely made, or whether certain defenses apply. Those issues are considered jurisdictional and subject to review by the Board. Under K.S.A. 2001 Supp. 44-551, the Board may also review a matter if it is alleged and determined that the Administrative Law Judge exceeded the Administrative Law Judge's jurisdiction in granting or denying the relief requested at preliminary hearing.

The issue before this Board deals with the amount of temporary total to which a claimant is entitled and whether the deductions allowable under K.S.A. 44-514 were proper under these circumstances. Those issues are not encompassed under either K.S.A. 2001 Supp. 44-551 or K.S.A. 44-534a, and the Board, therefore, does not have jurisdiction to consider them. Therefore, the appeal of claimant from the Order of the Administrative Law Judge should be dismissed.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the appeal of claimant in the above matter should be, and is hereby, dismissed and the Order of Administrative Law Judge Jon L. Frobish dated June 26, 2002, remains in full force and effect.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of August 2002.

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BOARD MEMBER

c: Steven R. Wilson, Attorney for Claimant  
Vincent A. Burnett, Attorney for Respondent  
Jon L. Frobish, Administrative Law Judge  
Director, Division of Workers Compensation