BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION

HEIDI TRUMMEL	)	
Claimant	)	
VS.	)	Docket No. 162,223
CESSNA AIRCRAFT COMPANY	)	
Respondent	)	
AND	)	
PACIFIC EMPLOYERS INS. CO.	)	
Insurance Carrier	)	
AND	)	
WORKERS COMPENSATION FUND	)	
MERVIN W. PORE	)	
Claimant	)	
VS.	)	Docket No. 140,311
AERO SHEET METAL, INC.	)	
Respondent	)	
AND	)	
LIBERTY MUTUAL INSURANCE COMPANY	)	
Insurance Carrier	)	
AND	)	
WORKERS COMPENSATION FUND	)	
CAROL GIBSON	)	
Claimant	)	
VS.	)	Docket No. 191,814
HARPER TRUCKS	)	
Respondent	)	
AND	)	
HARPER TRUCKS, INC.	)	
Insurance Carrier	)	

ORDER

The above matters come on before the Appeals Board upon the appeal of the law firm of Turner and Boisseau, Chartered (Law Firm) from the July 11, 1996, Order and September 6, 1996, Order Nunc Pro Tunc denying the Law Firm's request for reconsideration and refusing to accept further jurisdiction of this matter. The Law Firm requested determination of the Workers Compensation Division's jurisdiction over a verbal employment contract between the Law Firm and Mel Gregory.

ISSUES

Whether the Workers Compensation Division has jurisdiction over a dispute dealing with an oral employment contract between Mr. Gregory and the Law Firm.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The above dispute stems from the settlement of the three Workers Compensation cases above noted. In all three cases Mr. Gregory was the attorney of record for the claimant and the appropriate written contract of employment between claimant and Mr. Gregory was filed with the Workers Compensation Division. All three matters were settled before the Workers Compensation Division and appropriate attorney fees were ordered paid to Mr. Gregory for his services rendered. No appeal was taken from these settlements.

Over one year after the settlement of the last workers compensation matter the Law Firm filed a Petition in the District Court of Sedgwick County, Kansas, requesting a determination of the potential breach of an oral employment contract between Mr. Gregory and the Law Firm. A counterclaim was then filed by Mr. Gregory alleging breach of an oral employment contract on the part of the Law Firm. Part of the dispute stemmed from the Law Firm's request for a portion or all of the expenses and attorney fees received from the settlement of the above three workers compensation cases. The District Court of Sedgwick County, Kansas, stayed its action on May 1, 1996, awaiting a determination by the Workers Compensation Division on whether the Division had jurisdiction over these matters. Administrative Law Judge Nelsonna Potts Barnes in an Order dated July 11, 1996, denied the Law Firm's request for reconsideration and in an Order Nunc Pro Tunc Order dated September 6, 1996, refused to accept further jurisdiction of this matter.

K.S.A. 44-536 is the controlling statute when dealing with workers compensation attorney fees disputes. K.S.A. 44-536(h) grants the administrative law judge jurisdiction over any and all disputes regarding attorney fees in workers compensation matters.

However, K.S.A. 44-536(b) requires that contracts between the attorney and the employee be in writing and filed with the Director. The parties acknowledge no contract ever existed between the Law Firm and the various and individual claimants.

As this matter is one of an oral employment contract between the Law Firm and Mr. Gregory and has absolutely no bearing on the prior workers compensation litigation, the Appeals Board finds appropriate jurisdiction for the resolution of this dispute to be the District Court of Sedgwick County, Kansas.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Nelsonna Potts Barnes dated July 11, 1996, and the Order Nunc Pro Tunc dated September 6, 1996, should be and are hereby affirmed, and the "Amended Motion to Determin [sic] Apportionment of Attorneys Fees, Amended Motion to Reconsider, and Amended Motion for Discovery and Evidentiary Hearing" filed by the Law Firm in the above matters should be, and is hereby, dismissed.

IT IS SO ORDERED.

Dated this ____ day of June 1997.

_____
BOARD MEMBER

_____
BOARD MEMBER

_____
BOARD MEMBER

c: Karlin Gould, Wichita, KS
J. Darin Hayes, Wichita, KS
Nelsonna Potts Barnes, Administrative Law Judge
Philip S. Harness, Director