

ISSUES

The Administrative Law Judge denied the Motion for Dismissal filed by the Kansas Workers Compensation Fund. The Workers Compensation Fund requests the Appeals Board to review that Order. However, before the Appeals Board may address the issues that were before the Administrative Law Judge, it first must be determined that the Appeals Board has jurisdiction over this matter at this juncture of the proceeding.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, the Appeals Board, for purposes of this preliminary matter, finds that it does not have jurisdiction to review the issues raised before the Administrative Law Judge at this time. Therefore, the Order of the Administrative Law Judge remains in full force and effect.

The decision rendered by the Administrative Law Judge denying the Workers Compensation Fund's Motion to Dismiss is interlocutory in nature and subject to modification at the time of final award. Had the Administrative Law Judge granted the Fund's Motion, that order would have been final in nature and subject to review by this Board pursuant to K.S.A. 44-551 as any other final order or decision.

The Appeals Board finds, after examining both K.S.A. 44-551 and K.S.A. 44-534a, that the subject order is not a final order that can be reviewed by the Appeals Board pursuant to K.S.A. 44-551. Nor does K.S.A. 44-534a apply as that statute is limited to preliminary hearing matters pertaining to the issues of the furnishing of medical treatment and the payment of temporary total disability compensation. The Order now before us pertains to an interlocutory matter over which the Administrative Law Judge has the authority to adjudicate if called upon during the proceeding.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Floyd V. Palmer, dated May 12, 1994, remains in full force and effect.

IT IS SO ORDERED.

Dated this ____ day of August, 1994.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Frederick J. Greenbaum, PO Box 1300, Kansas City, KS 66117
Eugene C. Riling, PO Box B, Lawrence, KS 66044
Floyd V. Palmer, Administrative Law Judge
George Gomez, Director