

suffered accidental injury arising out of and in the course the of her employment. The award of benefits should be reversed.

Claimant alleges a series of injuries to her low back in the months of January, February and March of 1992 while she was working as a printer operator for respondent Hallmark Cards. Claimant has a history of back problems requiring medical attention for approximately ten (10) years prior to the alleged date of injury. In March of 1986, she had a severe episode of back problems which caused her to miss several weeks of work. After the 1986 incident, claimant would obtain help lifting the heavier weights at work whenever possible. Claimant does not claim injury from a single event, but contends the symptoms worsened in January, February and March of 1992. The job duties to which she attributes the increased symptomatology and injury included working on concrete floors, lifting and moving of boxes of paper.

In January and early February of 1992, claimant sought treatment with Dr. Mark E. Johnson, a chiropractor. Dr. Johnson had treated claimant since, at least, the early 1980s. Claimant gave Dr. Johnson a history which indicated she had experienced an onset of pain while getting up from a sitting position on January 8, 1992. She did not advise him that this incident occurred at work. His records do include a notation that claimant's condition was aggravated or affected by her work.

Two medical doctors, Dr. William A. Bailey and Dr. P. Brent Koprivica, gave opinions regarding the relationship between claimant's work and her low back condition. Dr. Bailey treated claimant beginning on July 30, 1993. He last saw her February 4, 1993. His office records include records dating back to March of 1986 when claimant was treated by Dr. John Wertzberger. Dr. Bailey prescribed steroid injections and ordered a CAT scan. The CAT scan showed calcification and a broad-based bulging of the annulus at L5-S1 with narrowing of the lateral recesses, particularly on the right side at S1. The CAT scan was done on August 3, 1992. Dr. Bailey indicated that the findings on the CAT scan had existed for some time, but he could not say how long. He testified that in his opinion the work activities aggravated her symptoms. Claimant did not attribute her symptomatology to her work activities when he first saw her. When asked whether the condition for which he treated claimant existed prior to February 1992, he answered that by her history, symptoms were present at that time and had actually been in years past. From the records, he concluded she was having similar problems in 1986. He concluded that there was a change in her symptoms in January, February and March 1992, but he did not believe there was a change in her physical structure.

Dr. Koprivica saw and examined the claimant at the request of respondent. He reviewed the records of Dr. Bailey, Dr. Tillema, Dr. Wertzberger and claimant's chiropractors. He diagnosed chronic low back pain associated with degenerative disc disease at L5-S1. He testified that in his opinion, the work activities in January, February and March of 1992 did not cause any permanent impairment. He testified that it would be normal for her to have episodes of increased back pains. He considered her condition typical of exacerbation and remission of symptoms.

When viewed as a whole, the evidence does not convince the Appeals Board that claimant has suffered any new injury in the course of her employment in January, February or March of 1992. She has a long-standing history of low back problems which apparently produced some increase in symptomatology in early 1992. Neither of the examining medical experts has concluded that there was any permanent injury caused by her work activities during the period alleged. The Appeals Board, therefore, finds that the claimant's application for permanent disability benefits should be, and the same is hereby, denied.

WHEREFORE, the Appeals Board finds that the Award of permanent partial disability of Special Administrative Law Judge William F. Morrissey in the February 8, 1995 Award should be, and the same is, hereby reversed. The Award of other costs and expenses remain in effect as entered.

IT IS SO ORDERED.

Dated this ____ day of July 1995.

BOARD MEMBER _____

BOARD MEMBER _____

BOARD MEMBER _____

- c: Eugene C. Riling, Lawrence, KS
John David Jurcyk, Lenexa, KS
Darin M. Conklin, Topeka, KS
William F. Morrissey, Special Administrative Law Judge
David Shufelt, Acting Director