

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

<b>JAMES THILSTED</b>	)	
Claimant	)	
VS.	)	
<b>BOEING MILITARY AIRPLANES</b>	)	Docket No. 169,953
Respondent	)	
AND	)	
<b>AETNA CASUALTY &amp; SURETY COMPANY</b>	)	
Insurance Carrier	)	

**ORDER**

**ON** the 4th day of January, 1994, the application of the claimant for review by the Workers Compensation Appeals Board of an Order entered by Administrative Law Judge John D. Clark on November 23, 1993, came on for oral argument by telephone conference.

**APPEARANCES**

The claimant appeared by his attorney, Michael L. Snider, of Wichita, Kansas. The respondent and insurance carrier appeared by their attorney, Eric K. Kuhn, of Wichita, Kansas. There were no other appearances.

**ISSUES**

- (1) Whether the Administrative Law Judge exceeded his jurisdiction and authority by entering an order requiring vocational rehabilitation vendor to proceed to another priority other than retraining in Las Vegas.
- (2) Whether the Appeals Board has jurisdiction to hear this appeal.

**RECORD**

- (1) The documents filed of record with the Division of Workers Compensation in this

docketed matter, including the transcript of preliminary hearing before Administrative Law Judge John D. Clark dated November 23, 1993, and the exhibits attached thereto, the deposition of Steven L. Benjamin, dated August 27, 1993, and exhibits attached thereto, the deposition of James L. Gluck, M.D., dated October 4, 1993, and exhibits attached thereto, the deposition of Jerry D. Hardin, dated August 20, 1993, and exhibits attached thereto, the deposition of Kenneth Dale Zimmerman, M.D., dated October 21, 1993, and exhibits attached thereto.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Based upon the evidence presented and for purposes of preliminary hearing, the Appeals Board finds:

- (1) K.S.A. 1992 Supp. 44-510g(e) empowers the Director to order vocational rehabilitation, reeducation or training as is deemed necessary to restore the employee to the ability to perform work in the open labor market and to earn comparable wages.
- (2) The Workers Compensation Appeals Board's right to hear appeals of preliminary hearings is restricted by the provisions of K.S.A. 44-534a(a)(2) and K.S.A. 44-551(b)(2)(A). As the Administrative Law Judge does have the jurisdiction by statute to approve vocational rehabilitation benefits to the claimant, the Appeals Board finds it does not have the jurisdiction to entertain this appeal from the Preliminary Hearing Order.

### **AWARD**

**WHEREFORE**, it is the finding, decision and order of the Appeals Board that the Order of Administrative Law Judge John D. Clark dated November 23, 1993, remains in full force and effect.

**IT IS SO ORDERED.**

Dated this \_\_\_\_\_ day of January, 1994.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

cc: Michael L. Snider, 2628 South Oliver, Suite 104, Wichita, Kansas 67210  
Eric Kuhn, 700 Fourth Financial Center, 100 N Broadway, Wichita, Kansas 67202  
John D. Clark, Administrative Law Judge  
George Gomez, Director