

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

<b>MATT BOWERS</b>	)	
Claimant	)	
VS.	)	
	)	Docket No. 179,760
<b>CARDINAL BUILDING SERVICES, INC.</b>	)	& 184,063
Respondent	)	
AND	)	
	)	
<b>INSURANCE COMPANY OF NORTH AMERICA</b>	)	
Insurance Carrier	)	

**ORDER**

Claimant requested review of the Order dated June 27, 1996, entered by Special Administrative Law Judge William F. Morrissey. The Appeals Board heard oral argument on December 17, 1996.

**APPEARANCES**

James M. Crawl of Topeka, Kansas, appeared for the claimant. Marcia Yates of Kansas City, Missouri, appeared for the respondent and its insurance carrier.

**RECORD AND STIPULATIONS**

The Appeals Board considered the transcript of the hearing held before Special Administrative Law Judge William F. Morrissey on June 13, 1996, and the exhibits introduced at that hearing.

**ISSUES**

The Special Administrative Law Judge denied claimant's request for penalties for non-payment of a medical bill based upon the finding that claimant had previously compromised and settled that issue. Claimant asked the Appeals Board to review that finding. That is the only issue before the Appeals Board on this review.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the entire record, the Appeals Board finds as follows:

The Order entered by the Special Administrative Law Judge should be affirmed.

Claimant requests payment of a medical bill that was incurred for treatment of his alleged injury. Both of these docketed claims were settled by award on September 6, 1995, in a settlement hearing conducted by Special Administrative Law Judge Robert M. Telthorst. Neither party nor the Special Administrative Law Judge mentioned payment of any outstanding medical bills or who would be responsible if any were later discovered.

The Appeals Board finds that the terms of the Award as recited at the settlement hearing held on September 6, 1995, are binding upon the parties. Pursuant to Director's Rule 51-3-1, there are only four ways to terminate a compensable workers compensation claim: (1) by filing a settlement agreement, final receipt, and release of liability as provided by K.S.A. 44-527; (2) by hearing and written award; (3) by joint petition and stipulation subject to 51-3-16; or (4) by settlement hearing before an Administrative Law Judge.

In this instance, the parties chose to terminate these docketed claims by a settlement hearing before a special administrative law judge. At the September 6, 1995, settlement hearing, Special Administrative Law Judge Telthorst awarded claimant a lump sum settlement amount. No award was made for payment of outstanding medical expense and the award provided that all issues were being compromised. The Special Administrative Law Judge entered an award based upon the terms recited into the record by respondent's counsel as follows:

"Well, I'll put the nature of the settlement is a lump sum of \$5,000 to the Claimant and his attorneys on a strict compromise of any and all issues in this case, including but not limited to, the compensability of the claim; the nature and extent of disability; the liability for future medical possibilities of review and modification; liability for temporary total disability; and liability for vocational rehabilitation or unauthorized medical. Settlement approximates a permanent partial disability of 7 percent of the body as a whole due to the Claimant's various alleged injuries.

"This settlement is intended to include and close out any and all claims for accidental injury the Claimant may have arising out of and in the course of his employment with the Respondent up to the date of the settlement hearing."

An award of compensation, if not appealed from, is an adjudication of the rights and liabilities of the parties, and is open to review and modification or to be set aside only in the manner provided by the workers compensation act. See Yocum v. Phillips Petroleum Co., 228 Kan. 216, 612 P.2d 649 (1980) and Austin v. Phillips Petroleum Co., 138 Kan. 258, 25 P.2d 581 (1933).

In the absence of proof of fraud or other wrongdoing, a lump sum settlement award for claims properly before the administrative law judge must stand. The record is devoid of evidence which would constitute proof of fraud or wrongdoing on respondent's part. Therefore, because Special Administrative Law Judge Telthorst did not order payment of the medical bill in question as part of the Award, claimant's request that respondent must now make payment should be denied.

Claimant argued that the Appeals Board should go beyond the statements of the parties and the Special Administrative Law Judge at the settlement hearing to determine the terms of the Award. The Appeals Board disagrees. In the absence of ambiguity, the terms of the Award are to be determined from the settlement hearing transcript. In this instance, the transcript is unambiguous.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Order dated June 27, 1996, entered by Special Administrative Law Judge William F. Morrissey should be, and hereby is, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of January 1997.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

- c: James M. Crowl, Topeka, KS
- Marcia Yates, Kansas City, MO
- Office of Administrative Law Judge, Topeka, KS
- Philip S. Harness, Director