

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

JOHN E. CODAY)	
Claimant)	
VS.)	
)	
)	Docket Nos. 180,620 &
)	180,623
THE BOEING COMPANY-WICHITA)	
Respondent)	
AND)	
)	
AETNA CASUALTY & SURETY COMPANY)	
Insurance Carrier)	
AND)	
)	
KANSAS WORKERS COMPENSATION FUND)	

ORDER

Claimant requests a review by the Appeals Board of a Preliminary Hearing Order entered by Administrative Law Judge Shannon S. Krysl dated December 15, 1994. This Order denied claimant's request for medical benefits in Docket No. 180,623, with an alleged date of accident of April 26, 1993.

ISSUES

The sole issue the claimant requested reviewed by the Appeals Board was whether he suffered an accidental injury on April 26, 1993, that arose out of and in the course of his employment with the respondent. This particular issue is one that is specifically set forth in K.S.A. 44-534a(a)(2) as one which, if disputed, is subject to review by the Appeals Board.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Claimant alleges that he injured his low back on April 26, 1993, when he reached under a table for computer supplies, while working for the respondent. Claimant sought medical treatment for this injury from Dr. Poling, Dr. King, Dr. Ozanne and Dr. Eyster. An

MRI was done on April 30, 1993, that found a right side L4-5 disc herniation. However, the medical records do not relate the claimant's low back problems to his work until Dr. King's note, dated August 16, 1993, which states, "Since that time, he has looked back and feels this is a work-comp injury. . . . However he did not report this and may need to go to court on that."

The first medical report the respondent received of claimant's alleged accident and injury was on October 1, 1993, when he reported it to Boeing Central Medical. In fact, the physical therapy notes from St. Joseph Medical Center dated May 4, 1993, state the claimant gave a history of coughing while carrying a baby two weeks ago causing low pain in the right hip radiating down to his calf. This history did not mention a work-related incident.

The claimant has the burden to establish his right to compensation benefits and to prove the various conditions upon which such right depends. See K.S.A. 44-501(a). In the present case, the Appeals Board finds the claimant has failed to meet this burden. After reviewing the whole record, including the voluminous medical records and the arguments contained in the briefs of the parties, the Appeals Board finds the claimant has failed to prove that it is more probably true than not that he suffered an accidental injury in the performance of his work activities on April 26, 1993. Thus, the Appeals Board affirms the Order of the Administrative Law Judge that denied claimant's benefits in Docket No. 180,623 for alleged accident date of April 26, 1993.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Preliminary Hearing Order of Administrative Law Judge Shannon S. Krysl, dated December 15, 1994, denying claimant's request for medical treatment, is affirmed and remains in full force and effect.

IT IS SO ORDERED.

Dated this ____ day of March, 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

- c: John E. Coday, Haysville, KS
- Eric K. Kuhn, Wichita, KS
- James Roth, Wichita, KS
- Shannon S. Krysl, Administrative Law Judge
- George Gomez, Director