BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION

DONNA J. RICHARDSON	)	
Claimant	)	
VS.	)	
	)	Docket No. 184,353 &
	)	184,362
ACE ELECTRIC COMPANY	)	
Respondent	)	
AND	)	
	)	
SELF INSURED	)	
Insurance Carrier	)	
AND	)	
	)	
KANSAS WORKERS COMPENSATION FUND	)	

ORDER

On November 22, 1994, the Appeals Board heard claimant's request to review the Preliminary Hearing Order entered by Administrative Law Judge Steven J. Howard, dated August 29, 1994.

APPEARANCES

Claimant appeared by her attorney, Patrick C. Smith of Pittsburg, Kansas. Respondent and its insurance carrier appeared by their attorney, Garry W. Lassman of Pittsburg, Kansas. The Kansas Workers Compensation Fund appeared by its attorney, William Phalen of Pittsburg, Kansas.

ISSUES

The Administrative Law Judge denied claimant's request for temporary total and medical treatment. The claimant requests the Appeals Board review this preliminary matter.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

This proceeding must be remanded to the Administrative Law Judge for additional findings. The Administrative Law Judge has denied benefits, but did not make findings or otherwise state the reason for the denial.

Under K.S.A. 44-534a, the Appeals Board has the authority and jurisdiction to review preliminary findings which address the disputed issues of: (1) whether the employee suffered an accidental injury; (2) whether the injury arose out of and in the course of the employee's employment; (3) whether notice is given or claim is timely made; (4) whether certain defenses apply. Because the parties introduced testimony and medical records from which the Administrative Law Judge could have denied benefits based upon preliminary findings not subject to our review, the Appeals Board is unable to determine whether it has jurisdiction over this preliminary matter.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that this proceeding should be, and hereby is, remanded to the Administrative Law Judge for an order containing additional findings or statement explaining the reason for the denial of benefits. The Appeals Board does not retain jurisdiction over this matter and the parties must file a new application for review and follow the appropriate procedures, should they be aggrieved, after they receive the additional findings and order from the Administrative Law Judge.

IT IS SO ORDERED.

Dated this ____ day of December, 1994.

_____
BOARD MEMBER

_____
BOARD MEMBER

_____
BOARD MEMBER

cc: Patrick C. Smith, Attorney at Law, Pittsburg, KS
Garry W. Lassman, Attorney at Law, Pittsburg, KS
William Phalen, Attorney at Law, Pittsburg, KS
Steven J. Howard, Administrative Law Judge
George Gomez, Director