



**ISSUES**

For preliminary hearing purposes, the Administrative Law Judge found that claimant sustained personal injury by accident arising out of and in the course of her employment with the respondent on October 29, 1993. That is the issue now before the Appeals Board.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Having reviewed the entire record and the exhibits, for preliminary hearing purposes, the Appeals Board makes the following findings of fact and conclusions of law:

(1) The Appeals Board affirms the preliminary hearing determination of the Administrative Law Judge that claimant's accidental injury arose out of and in the course of her employment with the respondent and that claimant is entitled to workers compensation benefits arising therefrom.

Claimant is seventy years old and works for the respondent, Johnson County Library, as a circulation clerk. On October 29, 1993, at approximately 9:30 am, claimant fell and broke her right hip. Claimant readily admits that she does not know what caused the fall, but a courier for the Johnson County Library testified that she appeared to trip. Although claimant had been previously diagnosed as having arthritis in her right knee, there is no history that it caused her to fall or that claimant had fallen in the past as a result of any medical condition. Claimant did not lose consciousness and was lucid at the time of the incident.

Evidence was presented that claimant was moving from a carpeted area to an area covered by linoleum. There is a metal strip that separates the two areas. Whether claimant tripped over the metal strip, drug her foot on the carpeting, or struck her foot on a nearby counter, we do not know. However, the witness, Michael Austin, testified that claimant appeared to have lunged forward similar to a trip as opposed to her knee or leg simply giving way.

Based upon the evidence presented to date, the Appeals Board finds that it is more probably true than not that claimant's injury was caused by a trip and fall, and that such incident and the resulting injuries arose out of and in the course of her employment with the respondent.

**AWARD**

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Alvin E. Witwer dated February 3, 1994, should be, and hereby is, affirmed in all respects.

**IT IS SO ORDERED.**

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

---

BOARD MEMBER

---

BOARD MEMBER

---

BOARD MEMBER

cc: Denise E. Tomasic, PO Box 171855, Kansas City, KS 66117-1855  
Eric T. Lanham, PO Box 1300, Kansas City, KS 66117  
Alvin E. Witwer, Administrative Law Judge  
George Gomez, Director