



**ISSUES**

Claimant appeals the decision by the Administrative Law Judge finding that claimant has not proved by a preponderance of the credible evidence that the medical condition for which she now seeks medical treatment arose out of and in the course of her employment.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

(1) The issue raised on appeal, i.e. whether claimant's injury arose out of and in the course of her employment, is one listed in K.S.A. 44-534a as an issue which the Appeals Board does have jurisdiction to review on appeals from preliminary orders.

(2) After review of the record and consideration of the arguments made by counsel, the Appeals Board finds that claimant has not proven by a preponderance of the credible evidence that her injury arose out of and in the course of her employment. The Appeals Board does, therefore, affirm the decision by Administrative Law Judge Alvin E. Witwer.

Claimant has alleged and testified that she was injured on February 25, 1993, shoveling snow away from her car in the company parking lot. She testified that she fell and injured her foot, right elbow and right side. The earliest medical records, however, were March 9, 1993 records of Dr. Derrington which reflect a history of pain over approximately a three to four week period. Those records also indicate she is taking medicine from her husband because she thinks the pain may be caused by gout. Those records specifically state that she does not remember any trauma. Not until April 6, 1993, is there any reference in the records to injury on the job. Dr. Derrington's notes for that date indicate that, "Frances is now able to remember that she feel [sic] in the parking lot at work on 2/25/93 and feels that this is how she injured her foot . . . ." A bone scan done on April 19, 1993, showed findings consistent with degenerative changes in both left and right feet but no consistent pattern to suggest an acute fracture. From these facts and from the evidence presented in the record as a whole, the Appeals Board concludes that claimant has not met her burden and her request for medical treatment is, therefore, denied.

**AWARD**

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the decision of Administrative Law Judge Alvin E. Witwer, in his Preliminary Hearing Order dated May 2, 1994, is hereby affirmed.

**IT IS SO ORDERED.**

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

---

BOARD MEMBER

---

BOARD MEMBER

---

BOARD MEMBER

c: Christina R. Schoeppey, 1125 Grand, Suite 1801, Kansas City, MO 64106  
Mark E. Kolich, PO Box 171855, Kansas City, KS 66117  
Alvin E. Witwer, Administrative Law Judge  
George Gomez, Director