

injury progressively worsened until claimant was taken off work on September 10, 1994. Claimant's alleged date of accident is a series of accidents between May 1994 and September 10, 1994. The Administrative Law Judge found that the evidence in the case established that due to the claimant's work activities, he suffered cumulative traumas that aggravated his initial injury, finally resulting in his not being able to work. The claimant completed an incident report on September 1, 1994, notifying the respondent of his work-related injury. The Administrative Law Judge concluded that the claimant had met the ten (10) day notice requirement as contained in K.S.A. 44-520 by filling out the incident report.

Respondent, on the other hand, argues that the claimant was not injured by a series of cumulative traumas, but was injured by a single event that occurred sometime during the first of June of 1994. Consequently, since the claimant failed to give the respondent notice of the June 1994 accident until September 1, 1994, his claim is barred by K.S.A. 44-520, which requires notice of an accident within ten (10) days or upon showing of just cause.

Having reviewed the evidentiary record presented before the Administrative Law Judge and for preliminary hearing purposes, the Appeals Board finds that the credible evidence has established, through the claimant's testimony and medical records introduced at the preliminary hearing, that the claimant suffered an initial work-related injury in June of 1994 and due to his work activities, the injury was aggravated by cumulative traumas culminating in his having to leave work on September 10, 1994. Claimant satisfied the ten (10) day notice requirement of K.S.A. 44-520 by completing an incident report on September 1, 1994 and providing the report to the respondent the same day.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Preliminary Hearing Order of Administrative Law Judge Floyd V. Palmer, dated December 27, 1994, 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 J. Bryan, Topeka KS
James C. Wright, Topeka KS
Floyd V. Palmer, Administrative Law Judge
George Gomez, Director