

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

JILL E. HAREMZA)	
Claimant)	
VS.)	
)	Docket No. 196,738
DILLON STORES DIVISION)	
Respondent)	

ORDER

On November 13, 1996, the application of the claimant for review by the Workers Compensation Appeals Board of an Award entered by Administrative Law Judge Jon L. Frobish on May 24, 1996, came on for oral argument in Wichita, Kansas.

APPEARANCES

Claimant appeared by and through her attorney, Chris A. Clements of Wichita, Kansas. Respondent, a qualified self insured, appeared by and through its attorney, Edward D. Heath, Jr., Wichita, Kansas. There were no other appearances.

RECORD AND STIPULATIONS

The record and stipulations as specifically set forth in the Award of the Administrative Law Judge are herein adopted by the Appeals Board.

ISSUES

Claimant's application for review lists only the issue of compensability as being before the Appeals Board. A review of claimant's brief to the Appeals Board indicates that whether claimant suffered accidental injury arising out of and in the course of her employment on July 1, 1994, and each and every working day through August 22, 1994, the authorization of the medical expenses of Drs. Zeller, Murati, and Abay, and claimant's

entitlement to temporary total disability compensation from August 23, 1994, through January, 1995, are at issue. Whether claimant's accidental injury arose out of and in the course of her employment deals with the injury to claimant's back and not the injury to claimant's left knee.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the whole evidentiary record filed herein, including the stipulations of the parties, the Appeals Board makes the following findings of fact and conclusions of law.

With regard to whether claimant suffered accidental injury to her back arising out of and in the course of her employment with respondent with an injury date of July 1, 1994, through August 22, 1994, the Appeals Board finds that the Award of Administrative Law Judge sets out findings of fact and conclusions of law in some detail and it is not necessary to repeat those herein. The findings and conclusions enumerated in the Award of the Administrative Law Judge are both accurate and appropriate and the Appeals Board adopts the same as its own findings and conclusions as if specifically set forth herein. In particular the Appeals Board finds claimant's failure to mention her back until some 54 days after the date of the knee injury and during several trips to the doctor, convinces the Appeals Board that claimant has failed in her burden of proving her entitlement to benefits. Therefore, claimant should be denied compensation for the alleged back injury. Claimant's application for payment of the medical bills of Dr. Zeller, Dr. Murati, and Dr. Abay as they may relate to claimant's back treatment is also denied. Claimant is also not entitled to any temporary total disability compensation during the period August 23, 1994, through January, 1995, as a result of the nonwork-related alleged injury to her back.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award entered by Administrative Law Judge Jon L. Frobish dated May 24, 1996, should be, and is hereby affirmed in all respects.

The fees necessary to dray the expenses of the administration of the Workers Compensation Act are assessed against the respondent to be paid as follows:

Ireland Court Reporting Services	
Deposition of Jill Elaine Haremza	\$265.42
Deposition of Eustaquio O. Abay, M.D.	\$139.90
K. Pfannenstiel Reporting & Assoc.	
Deposition of Myron J. Zeller, M.D.	\$144.23

IT IS SO ORDERED.

Dated this ____ day of November 1996.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

- c: Chris A. Clements, Wichita, KS
Edward D. Heath, Jr., Wichita, KS
Jon L. Frobish, Administrative Law Judge
Philip S. Harness, Director