



The Preliminary Hearing Order of the Administrative Law Judge should be affirmed. Although there may be some question regarding the exact time certain events occurred surrounding claimant's alleged accident on January 5, 1995, the evidence presented to date indicates claimant has preliminarily satisfied his burden of proof that he did sustain personal injury by accident arising out of and in the course of his employment with the respondent when he was moving equipment in his truck as alleged and injured his left shoulder. After the lifting incident, claimant immediately called the respondent's office, reported his injury, and requested medical treatment. In light of all the evidence presented to date, the Appeals Board finds claimant's testimony to be credible and persuasive.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Preliminary Hearing Order of Administrative Law Judge Steven J. Howard, dated March 29, 1995, should be, and hereby is, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of July, 1995.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

- c: Timothy V. Pickell, Westwood, Kansas
- Michael W. Downing, Kansas City, Missouri
- Steven J. Howard, Administrative Law Judge
- David A. Shufelt, Acting Director