

Employee's Report of Injury. An Unusual Occurrence Report filled out on that same date also indicated claimant suffered a burning pain in her right shoulder, but again, there was no mention of claimant's back.

The first mention of claimant's back occurs on August 25, 1995 when she was admitted into the Harper County Emergency Room suffering from severe back pain with an onset on that date. The admissions records on August 28, 1995 at St. Francis Regional Medical Center indicate claimant's onset of low back pain began August 25, 1995 while she was sitting on a cooler changing a door handle at home.

The medical records of Dr. Gene Evans dated September 13, 1995 indicate claimant denied the low back as a work-related injury.

It is acknowledged in the record claimant has suffered low back pain since December, 1993, with ongoing symptomatology from that date forward.

Claimant alleges ongoing back symptomatology from August 19, 1995 forward, with the pain in this instance being much more severe than the pain she had suffered in 1993 or 1994.

In proceedings under the Workers Compensation Act, the burden of proof shall be on the claimant to establish claimant's right to an award of compensation by proving the various conditions on which the claimant's right depends. This burden must be carried by a preponderance of the credible evidence. K.S.A. 44-501; K.S.A. 44-508(g). See also Box v. Cessna Aircraft Co., 236 Kan. 237, 689 P.2d 871 (1984).

The medical evidence in this matter contradicts claimant's allegations. Not only did claimant fail to mention her low back symptomatology on the reports completed at her place of employment, she also failed to advise health care providers in two emergency rooms and in certain medical offices that her low back symptomatology was, in some way, related to her work-related injury.

The Appeals Board finds claimant has failed to prove by a preponderance of the credible evidence that the injury to her low back arose out of and in the course of her employment with respondent either on August 19, 1995 or from a series of injuries through August 24, 1995.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge John D. Clark dated December 21, 1995, should be, and is hereby, reversed and claimant's entitlement to medical treatment for the low back injury is herein denied.

IT IS SO ORDERED.

Dated this ____ day of February 1996.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

- c: Roger A. Riedmiller, Wichita, Kansas
Edward D. Heath, Jr., Wichita, Kansas
John D. Clark, Administrative Law Judge
Philip S. Harness, Director