



supervisor by telephone to advise him of the injury but, due to his inability to speak or understand English, was unable to communicate this information to the supervisor. He then solicited the aid of Sean Maniates to contact the supervisor regarding the injury. Mr. Maniates testified that claimant requested that he contact the supervisor by telephone regarding the amount of work claimant had to do to clean up the kill floor. Claimant objected that several members of the crew had been allowed to go home early leaving him with what he considered to be an inappropriate amount of work. Mr. Maniates testified claimant did not advise him of any work-related injury at that time.

Claimant requested both medical treatment and temporary total disability compensation at the preliminary hearing. Respondent raised the issue whether claimant suffered accidental injury arising out of and in the course of his employment. The Administrative Law Judge, in the Order, denied claimant medical treatment but failed to mention claimant's request for temporary total disability compensation. The only medical evidence contained in the record is that of Dr. Philip R. Mills, a physiatrist, to whom claimant was referred by his attorney. Dr. Mills examined claimant finding shoulder impingement syndrome and possible carpal tunnel syndrome. He rated claimant and gave him specific restrictions but failed to recommend any additional medical treatment. In rating and restricting claimant, Dr. Mills indicated that the claimant had reached maximum medical improvement.

The Order of the Administrative Law Judge does not address the issue of whether claimant suffered accidental injury arising out of and in the course of his employment but instead merely denies claimant medical treatment. The Appeals Board finds that even if it should find accidental injury arising out of and in the course of claimant's employment there is no evidence in the record showing claimant is in need of additional medical care. As such, the Appeals Board finds the Order of the Administrative Law Judge should be affirmed with regard to the denial of medical care. The Appeals Board finds, by his failure to award temporary total disability compensation, that the Administrative Law Judge found claimant to not be temporarily totally disabled. The uncontradicted report of Dr. Mills finds claimant to have reached maximum medical improvement, thus, disallowing any right to temporary total disability compensation at this time.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Jon L. Frobish dated April 2, 1996, remains in full force and effect.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of May 1996.

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BOARD MEMBER

c: Joseph Seiwert, Wichita, KS  
Shane Bangerter, Dodge City, KS  
Jon L. Frobish, Administrative Law Judge  
Philip S. Harness, Director