

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

<b>JOHN W. THRUTCHLEY</b>	)	
Claimant	)	
VS.	)	
	)	Docket No. 211,100
<b>CIGNA PROPERTY &amp; CASUALTY INSURANCE</b>	)	
Respondent	)	
Self-Insured	)	
	)	
AND	)	
	)	
<b>KANSAS WORKERS COMPENSATION FUND</b>	)	

**ORDER**

Respondent appeals from a preliminary hearing Order entered by Administrative Law Judge Steven J. Howard on April 2, 1997.

**ISSUES**

Did claimant's injury arise out of and in the course of his employment?

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record and considering the arguments, the Appeals Board concludes the decision by the Administrative Law Judge should be affirmed.

The appealed Order granted temporary total disability benefits and medical treatment with Richard M. Dubinsky, M.D., as the authorized treating physician. Dr. Dubinsky has diagnosed dystonic writer's cramp associated with writing in claimant's job.

Respondent argues claimant has not met his burden of proving the injury arose out of and in the course of his employment. Respondent does so principally for three reasons. First, claimant's symptoms began during previous employment at the Auto Club. Dr. Dubinsky relates the condition to employment but does not say which employment. Second, other examining physicians suggest the condition is not related to work. Finally, claimant has a similar condition in the left hand.

In spite of the factors emphasized by respondent, the Appeals Board agrees with the conclusion by the Administrative Law Judge. The Board agrees primarily because of the specific testimony of the claimant relating to the symptoms experienced in the course of his employment with respondent. The medical opinions appear to be divided, but the claimant experiences the problems primarily from work. He acknowledges symptoms in his previous employment but states they became different and worse while working for respondent. While Dr. Dubinsky's opinion does not state which employment, it seems most probable, in context, that he is referring to claimant's current employment with respondent.

**WHEREFORE**, the Appeals Board finds and concludes the Order by Administrative Law Judge Steven J. Howard, dated April 2, 1997, should be, and the same is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of May 1997.

---

BOARD MEMBER

c: Michael R. Wallace, Shawnee Mission, KS  
Gary R. Terrill, Overland Park, KS  
Terri Z. Austenfeld, Overland Park, KS  
Steven J. Howard, Administrative Law Judge  
Philip S. Harness, Director