

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

VICKIE E. HACKER)	
Claimant)	
VS.)	
)	Docket Nos. 206,882
PARKVIEW LEARNING CENTER)	& 214,017
Respondent)	
AND)	
)	
NATIONAL UNION FIRE INSURANCE COMPANY)	
& FIREMAN'S FUND INSURANCE COMPANY)	
Insurance Carriers)	

ORDER

On May 19, 1998, the Application of Respondent and National Union Fire Insurance Company for review by the Workers Compensation Appeals Board of an Award entered by Administrative Law Judge Bruce E. Moore dated November 20, 1997, came on for oral argument.

APPEARANCES

Claimant appeared by her attorney, M. John Carpenter of Great Bend, Kansas. Respondent and its insurance carrier, National Union Fire Insurance Company, appeared by its attorney, Stephen P. Doherty of Kansas City, Kansas. Respondent and its insurance carrier, Fireman's Fund Insurance Company, appeared by its attorney, Richard A. Boeckman of Great Bend, 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

Respondent raised the following issues for Appeals Board consideration:

- (1) What is the amount of compensation due and owing claimant?

- (2) Did the court properly determine whether the claimant's overall impairment was due to the June 1993 injury or whether claimant suffered additional permanent injury in 1996 (Docket No. 214,017) for which claimant should receive benefits?
- (3) Did the Administrative Law Judge err in holding that all of claimant's current impairment was a natural and probable consequence of the June 1993 injury?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the whole evidentiary record filed herein, the Appeals Board makes the following findings of fact and conclusions of law:

The Award of the 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 accurate and appropriate, and the Appeals Board adopts same as its own findings and conclusions as if specifically set forth herein.

The Appeals Board considers the testimony of Dr. C. Reiff Brown to be the most credible in this instance. Dr. Brown had the opportunity to examine and to treat claimant over a period of time in both 1993 and 1996, with multiple examinations involved. Dr. Brown's opinion regarding claimant's ongoing symptomatology further conforms to the testimony of claimant who, after describing periodic increases in symptoms, testified that her base pain level would return to that of 1993. While there was some change in claimant's condition as evidenced by the MRIs taken in 1993 and in 1997, the opinion of Dr. Brown is that these changes are the natural and probable consequences of the 1993 injury rather than the more recent incidents occurring during claimant's employment with respondent. Nance v. Harvey County, 23 Kan. App. 2d 899, 937 P.2d 1245 (1997), *aff'd*, Docket No. 75,703 (Kan. 1997). The Appeals Board finds that the 14 percent functional impairment awarded in Docket No. 206,882 is appropriate, and that award is affirmed.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award entered by Administrative Law Judge Bruce E. Moore dated November 20, 1997, should be, and is hereby, affirmed in all respects.

IT IS SO ORDERED.

Dated this ____ day of June 1998.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: M. John Carpenter, Great Bend, KS
Stephen P. Doherty, Kansas City, KS
Richard A. Boeckman, Great Bend, KS
Bruce E. Moore, Administrative Law Judge
Philip S. Harness, Director