

application and further found claimant had entered into a stipulation agreeing that certain medical records should be admitted into the record without foundation.

The issues raised by the respondent in its application for review are quoted below:

- A. Whether the Administrative Law Judge exceeded his authority by not granting the extension of terminal dates.
- B. Whether the Administrative Law Judge erred in determining that no good cause was shown for extension of the terminal dates.
- C. Whether the terminal dates originally set by the Court were in compliance with the Kansas statutes.
- D. Whether the Administrative Law Judge failed to give the parties a reasonable opportunity to present their evidence in connection with the claim.”

The single issue raised by the claimant was whether the Administrative Law Judge exceeded his authority when he found claimant’s attorney had entered into a stipulation agreeing to admit certain medical records into the record without foundation.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the briefs of the parties, the Appeals Board finds as follows:

The Appeals Board concludes it does not have jurisdiction to review the Administrative Law Judge’s September 9, 1998, Order and September 10, 1998, Nunc Pro Tunc Order. This is not an appeal from an order entered pursuant to the preliminary hearing statute found at K.S.A. 1997 Supp. 44-534a. An appeal from a preliminary hearing either must allege that the Administrative Law Judge exceeded his or her jurisdiction or one of the jurisdictional issues listed in K.S.A. 1997 Supp. 44-534a must be raised. This appeal is the result of a hearing held before the final award on the respondent’s Application for Extension of Terminal Dates. For the Appeals Board to have jurisdiction to review these Orders, at this juncture of the proceeding, the appeal would have to be brought pursuant to K.S.A. 1997 Supp. 44-551(b)(1).

The 1997 Kansas legislature amended K.S.A. 1996 Supp. 44-551(b)(1). Effective July 1, 1997, the amendment changed the jurisdiction of the Appeals Board from reviewing “[a]ll acts, findings, awards, decisions, rulings or modifications of findings or awards made by an administrative law judge . . .” to review of “[a]ll final orders, awards, modifications of awards, or preliminary awards under K.S.A. 44-534a and amendments thereto made by an administrative law judge . . .”

The Appeals Board finds the Orders which are the subject of this appeal are not final orders, awards, modification of awards, or preliminary hearing awards as contemplated in K.S.A. 1997 Supp. 44-551(b)(1). The Appeals Board concludes the Orders are interlocutory orders made by the Administrative Law Judge during the trial of a workers compensation case. It is an order that the Administrative Law Judge has the authority to make during the trial process, and the Appeals Board lacks jurisdiction to review the orders until they are contained in a final order or award.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the respondent's and claimant's appeals from Administrative Law Judge Bryce D. Benedict's September 9, 1998, Order and September 10, 1998, Order Nunc Pro Tunc, should be, and are hereby, dismissed.

IT IS SO ORDERED.

Dated this ____ day of October 1998.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

- c: George H. Pearson III, Topeka, KS
- Kip A. Kubin, Overland Park, KS
- Bryce D. Benedict, Administrative Law Judge
- Philip S. Harness, Director