

Even if Drennon v. Braden Drilling Co., 207 Kan. 202 (1971) can be extended to allow the Court to involuntarily dismiss a workers compensation case, this Court will not do so in this case. Drennon noted that the voluntary dismissal “in no way deprives the appellants of their right to present evidence on the issues defined or the defenses which they may assert.” 207 Kan. At 211. In the present case, the involuntary dismissal of the Claimant’s case would work an obvious deprivation of his right to be heard.

CONCLUSIONS OF LAW

This appeal should be dismissed.

(1) The Appeals Board’s jurisdiction to review appeals is governed by K.S.A. 1997 Supp. 44-534a and K.S.A. 1997 Supp. 44-551. Those statutes grant the Appeals Board the jurisdiction to review (1) certain preliminary hearing findings and (2) final orders and awards. Neither statute grants the Appeals Board the authority to review the interlocutory order now presented.

(2) Because this is not an appeal from a preliminary hearing held pursuant to K.S.A. 1997 Supp. 44-534a, that statute does not give the Appeals Board jurisdiction to review the order in question.

(3) Because the denial of a request to dismiss is not in the nature of a final order or award but interlocutory in nature, K.S.A. 1997 Supp. 44-551 does not give the Appeals Board jurisdiction to review that denial.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that this appeal should be, and hereby is, dismissed; that the Order dated June 4, 1998, entered by Administrative Law Judge Bryce D. Benedict remains in full force and effect.

IT IS SO ORDERED.

Dated this ____ day of July 1998.

BOARD MEMBER

BOARD MEMBER

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- c: Jeff K. Cooper, Topeka, KS
- Fred W. Rausch, Jr., Topeka, KS
- Patrick M. Salsbury, Topeka, KS
- Bryce D. Benedict, Administrative Law Judge
- Philip S. Harness, Director