



**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Having reviewed the entire evidentiary record, including the briefs of the parties, the Appeals Board finds that the Award should be affirmed.

The Appeals Board finds that the Award sets out findings of fact and conclusions of law in some detail. These findings and conclusions are accurate and are supported by the record, and it is not necessary to repeat those herein.

Claimant suffered two accidental injuries. The first injury, on July 14, 1997, resulted in medical care being provided, but no permanent disability. The second injury, on September 8, 1997, occurred while claimant was lifting a big reel and felt a snap in her low back accompanied by pain. During the day, the pain worsened.

The Administrative Law Judge, in considering the nature and extent of claimant's injury, found claimant had suffered a 48.4 percent loss of task performing abilities pursuant to K.S.A. 1997 Supp. 44-510e. This task loss took into consideration both the opinion of Robert L. Eyster, M.D., that claimant had suffered a 12.8 percent task loss, and of Daniel D. Zimmerman, M.D., that claimant had suffered an 84 percent task loss. The Administrative Law Judge gave equal weight to the opinions of the two physicians and concluded claimant had a 48.4 percent task loss.

The Administrative Law Judge also found claimant had suffered a 100 percent wage loss. Respondent argued that claimant did not put forth a good faith effort in seeking employment after leaving respondent. However, the record shows that claimant made several attempts to return to employment with respondent. These attempts met with no success. Claimant also testified to numerous job contacts with various businesses around the area. Respondent provides no evidence to contradict claimant's testimony regarding her multiple attempts to find work which, while unsuccessful, did constitute a good faith effort to seek employment. Therefore, the Board finds claimant has suffered a 100 percent wage loss pursuant to K.S.A. 1997 Supp. 44-510e.

Pursuant to K.S.A. 1997 Supp. 44-510e, in averaging both claimant's 48.4 percent task loss and 100 percent wage loss, the Appeals Board finds claimant has a 74.2 percent work disability for the injuries suffered on September 8, 1997.

**AWARD**

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Award of Administrative Law Judge Jon L. Frobish dated September 21, 1999, should be, and is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of February 2000.

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BOARD MEMBER

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- c: Randy S. Stalcup, Wichita, KS
- Stephen J. Jones, Wichita, KS
- Jon L. Frobish, Administrative Law Judge
- Philip S. Harness, Director