

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

<b>JODY C. DAVIS</b>	)	
Claimant	)	
VS.	)	
	)	Docket No. 233,125
<b>UNITED PARCEL SERVICE</b>	)	
Respondent	)	
AND	)	
	)	
<b>LIBERTY MUTUAL INSURANCE COMPANY</b>	)	
Insurance Carrier	)	

**ORDER**

Claimant requested Appeals Board review of the July 7, 1998, preliminary hearing Order entered by Administrative Law Judge Jon L. Frobish.

**ISSUES**

The Administrative Law Judge denied claimant's request for payment of a hospital emergency room statement in the amount of \$697.74 for the examination and testing claimant received on August 21, 1997. The Administrative Law Judge found claimant failed to prove he suffered an accidental injury that arose out of and in the course his employment with the respondent. That is the only issue raised by the claimant.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

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

On August 21, 1997, respondent assigned a supervisor to ride with the claimant while he performed his regular work duties of delivering packages. Claimant testified he ate breakfast at 8:30 a.m. and started his delivery duties at 9:00 a.m.

At 12:00 o'clock noon, claimant testified he experienced weakness, fatigue, and was shaking because he needed to eat lunch. Claimant testified his supervisor refused to allow him to stop working and eat lunch. After that refusal, claimant called the center manager who agreed with the supervisor that claimant did not need to eat lunch until after he completed another five deliveries which would take approximately 20 minutes.

Claimant made one additional delivery and told the supervisor he was too weak to make another delivery. The supervisor then called the center manager who decided that claimant should be taken to the hospital for examination and treatment for a possible diabetic condition. The supervisor then drove claimant to the hospital emergency room where claimant was examined by emergency room personnel at 12:50 p.m. Claimant's blood and urine were tested. Both tested normal. Claimant also had an EKG test which was normal. Claimant was then provided with a lunch which made claimant feel better. At 3:20 p.m., claimant felt fine and was discharged from the emergency room.

Claimant contends he suffered a work-related injury because the respondent refused to allow him to eat lunch at 12:00 noon. Therefore, claimant argues respondent is responsible for the hospital emergency room bill in the amount of \$697.74. Claimant argues that if he had been allowed to eat lunch there would have been no need for him to be examined and tested at the hospital emergency room.

The Administrative Law Judge found claimant failed to prove he suffered a work-related injury. Therefore, the Administrative Law Judge denied claimant's request for an order requiring the respondent to pay the hospital emergency room bill. The Appeals Board agrees with the Administrative Law Judge and affirms the preliminary hearing Order. The Appeals Board finds there is no evidence in the record that claimant's weakened condition on August 21, 1997, had any causal relationship to his work. The Appeals Board finds claimant's weakened condition was a personal condition peculiar to the claimant and had no relation to his employment.

**WHEREFORE**, the Appeals Board finds that the preliminary hearing Order entered by Administrative Law Judge Jon L. Frobish on July 7, 1998, should be, and the same is hereby, affirmed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of August 1998.

---

BOARD MEMBER

c: Frederick J. Greenbaum, Kansas City, KS  
James B. Zongker, Wichita, KS  
Jon L. Frobish, Administrative Law Judge  
Philip S. Harness, Director