



(3) Respondent paid the costs for claimant to attend the seminar and stay at the hotel, including claimant's mileage and the cost for one meal per day, usually dinner. Respondent would reimburse claimant for the cost of the meal as long as the meal was reasonably priced. Claimant was left to use his discretion and common sense in determining what was a "reasonably priced" meal. Respondent did not designate any particular place where claimant was to eat his meals.

(4) After checking into the Broadview Hotel, claimant proceeded to the dining room located in the hotel to eat dinner. After looking at the menu, claimant determined the prices were too expensive and asked an attendant working at the front desk where he might find fast food restaurants. The attendant gave claimant directions to the area around Town East Square located in East Wichita on Rock Road where claimant might find some fast food restaurants.

(5) Claimant testified that in addition to respondent's paying for his dinner meal, respondent also reimbursed mileage to and from the hotel and the restaurant for the dinner meal.

(6) At the time of the accident, claimant was driving to the area around Town East Square in search of a fast food restaurant to eat dinner. While at the intersection of Rock Road, near Town East Square, claimant proceeded to make a left turn when he was struck by another car which had run a red light. Claimant was transported via ambulance from the scene of the accident to Wesley Medical Center.

(7) At the time of claimant's February, 1, 1999, deposition, claimant testified he continued to have neck and back pain, as well as numbness in his right arm, migraines and loss of memory as a result of the July, 12, 1998, accident.

(8) At the February 23, 1999, preliminary hearing, claimant requested additional medical treatment in the form of a referral to either a neuropsychiatrist or a physiatrist. Also at the preliminary hearing, respondent's motion to terminate all benefits was addressed. The ALJ denied claimant's request for additional medical treatment finding claimant's accident was not compensable. More specifically, the ALJ found that, at the time of the accident, claimant had deviated from his employment by making a personal side trip to the fast food restaurant. Due to the distance of travel involved, approximately seven to eight miles from claimant's hotel, the ALJ found the deviation to be substantial enough to take claimant outside the coverage of the Workers Compensation Act.

CONCLUSIONS OF LAW

- (1) The Workers Compensation Act is to be liberally construed to bring employers and employees within its provisions and protections. K.S.A. 1998 Supp. 44-501(g).
- (2) The preliminary hearing finding on whether claimant's accidental injury arises out of and in the course of his employment is listed as a jurisdictional issue in K.S.A. 1998 Supp. 44-534a and is subject to Appeals Board review.
- (3) An employee's participation in an educational or training seminar may be considered in the course of the employment for workers compensation purposes where participation is found to be incidental to the employment.<sup>1</sup> Injuries incurred while going and coming from places where work-related tasks occur are compensable where the travel is required to "complete some special work-related errand or special-purpose trip in the scope of the employment."<sup>2</sup>
- (4) Respondent approved and paid for claimant to attend the work-related seminar in Wichita, Kansas. Respondent also agreed to reimburse claimant for one meal per day, usually dinner, as long as claimant used his judgment and common sense in finding reasonably-priced meals. The ALJ found that respondent would have reimbursed claimant for his meals at the hotel; however, the record indicates that respondent did not require claimant to eat at a particular location. Respondent's only requirement for meal reimbursement was that the meals be reasonably priced. The ALJ further found the claimant only went to the fast food restaurant for his own personal convenience which constituted a deviation from his employment. The Appeals Board notes, however, that claimant testified he would have eaten at the hotel's restaurant but the prices were too expensive, which implies that the price of the meal, in claimant's judgment, exceeded respondent's reasonably-priced standard.
- (5) The Appeals Board concludes that claimant's traveling to eat at the fast food restaurant did not constitute a deviation from his employment. Claimant was required to find reasonably-priced meals while staying out-of-town at the seminar; therefore, the

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<sup>1</sup> Brobst v. Brighton Place North, 24 Kan. App.2d 766, 955 P.2d 1315 (1997).  
See Also, Blair v. Shaw, 171 Kan. 524, 233 P.2d 731 (1951).

<sup>2</sup> Id. at 774.

Appeals Board finds that claimant's accident while traveling to the area where the fast food restaurants were located arose out of and in the course of his employment.<sup>3</sup>

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order dated February 23, 1999, entered by Administrative Law Judge Jon L. Frobish denying claimant workers compensation benefits on the basis that his accident did not arise out of and in the course of his employment should be, and hereby is, reversed. This case is remanded to the ALJ for a decision on claimant's request for preliminary benefits.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of April 1999.

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BOARD MEMBER

c: Randy S. Stalcup, Wichita, Kansas  
P. Kelly Donley, Wichita, Kansas  
Jon L. Frobish, Administrative Law Judge  
Philip S. Harness, Director

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<sup>3</sup> See Also, Larson's Workers' Compensation Law, Sec. 25.21a (1998), wherein Larson notes that traveling employees generally are compensated for injuries received while traveling to and from their meals when the injury has its origin in a risk created by the necessity of staying away from home.