

(2) Travelers began providing Precision workers compensation insurance coverage on June 1, 1998.

(3) Ms. Nguyen first saw Dr. James L. Gluck for medical treatment on March 12, 1998. On that date, Ms. Nguyen missed some hours from work as she received an injection.

(4) Ms. Nguyen continued to work for Precision until July 22, 1998, when Dr. Gluck restricted her from working. Ms. Nguyen has not worked since.

CONCLUSIONS OF LAW

(1) Travelers contends that the Judge erred in finding the last day of work on July 22, 1998, as the appropriate date of accident for this repetitive trauma injury rather than March 12, 1998, when Ms. Nguyen missed some work. Therefore, Travelers argues that the Judge exceeded his jurisdiction and authority in assessing responsibility against it.

(2) The Appeals Board's jurisdiction to review preliminary hearing findings is limited. The following issues are deemed jurisdictional and may be reviewed in preliminary hearing appeals.¹

(1) Did the worker sustain an accidental injury?

(2) Did the injury arise out of and in the course of employment?

(3) Did the worker provide timely notice and written claim?

(4) Do certain defenses apply that go to the very basis and compensability of the claim?

(3) Also, the Board may review those preliminary hearing issues where the judges have exceeded their jurisdiction and authority.²

(4) The Judge did not exceed his jurisdiction and authority by determining for preliminary hearing purposes the appropriate date of accident for the repetitive trauma injuries. And because date of accident is not one of the jurisdictional issues listed above, at this juncture of the proceeding the Appeals Board does not have the jurisdiction and authority to review that preliminary hearing finding.

¹ K.S.A. 1998 Supp. 44-534a(a)(2).

² K.S.A. 1998 Supp. 44-551.

(5) As provided by the Act, preliminary hearing findings are not binding but subject to modification upon a full hearing on the claim.³

WHEREFORE, the Appeals Board dismisses the appeal.

IT IS SO ORDERED.

Dated this ____ day of February 1999.

BOARD MEMBER

c: Mark T. Schoenhofer, Wichita, KS
William L. Townsley, Wichita, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director

³ K.S.A. 1998 Supp. 44-534a(a)(2).