

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

<b>ERIC R. EKUM</b>	)	
Claimant	)	
VS.	)	
	)	Docket No. 237,197
<b>MONTGOMERY WARD</b>	)	
Respondent	)	
AND	)	
	)	
<b>INSURANCE COMPANY STATE OF PENNSYLVANIA</b>	)	
Insurance Carrier	)	
	)	
	)	
	)	

**ORDER**

Respondent and its insurance carrier appeal the preliminary hearing Order dated October 29, 1998, entered by Administrative Law Judge John D. Clark.

**ISSUES**

After finding that claimant sustained personal injury by accident arising out of and in the course of employment, Judge Clark awarded claimant both temporary total disability and medical benefits. Respondent and its insurance carrier requested the Appeals Board to review that Order.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record compiled to date, the Appeals Board finds that the preliminary hearing Order should be affirmed.

The Appeals Board agrees with Judge Clark that Mr. Ekum injured his back while working for Montgomery Ward on July 19, 1998. Mr. Ekum testified that he immediately reported the incident to both his supervisor and a co-worker. The co-worker, Dan Snyder, testified that Mr. Ekum advised him of the back injury shortly after the incident.

In their application for review, the respondent and its insurance carrier requested the Appeals Board to review the questions of whether they should be liable for the payment of the temporary total disability and medical expense that the judge ordered paid. When

the administrative law judges do not exceed their jurisdiction or authority, the Board's authority to hear preliminary hearing findings is limited to those issues set forth in K.S.A. 1997 Supp. 44-534a. Under these facts, at this juncture of the proceeding the only issue that has been raised that is reviewable is whether Mr. Ekum injured his back at work as he has alleged.

As provided by the Act, preliminary findings are not binding but subject to modification upon a full hearing on the claim.<sup>1</sup>

**WHEREFORE**, the Appeals Board affirms the preliminary hearing Order dated October 29, 1998, entered by Administrative Law Judge John D. Clark.

**IT IS SO ORDERED.**

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

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BOARD MEMBER

c: Kirby A. Vernon, Wichita, KS  
Dale V. Slape, Wichita, KS  
John D. Clark, Administrative Law Judge  
Philip S. Harness, Director

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<sup>1</sup> K.S.A. 1997 Supp. 44-534a(a)(2).