

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

CINDY ALLENDER)	
Claimant)	
VS.)	
)	Docket No. 239,478
NINNESCAH MANOR, INC.)	
Respondent)	
AND)	
)	
BUSINESS INSURANCE COMPANY)	
Insurance Carrier)	

ORDER

Claimant appeals from a preliminary hearing Order entered by Administrative Law Judge Jon L. Frobish on June 3, 1999.

ISSUES

The Administrative Law Judge found that claimant had failed to prove she had an accidental injury arising out of and in the course of employment with respondent. Claimant appeals that finding.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments, the Appeals Board concludes that the Order by the Administrative Law Judge should be affirmed.

Claimant alleges bilateral upper extremity injuries, principally injury to her hands and wrists. She contends these arose out of and in the course of her brief employment with respondent.

This is the second preliminary hearing held on this case. In the first Order, dated January 25, 1999, the Administrative Law Judge denied benefits after finding that claimant failed to prove that she sustained accidental injury arising out of and in the course of her employment. Claimant appealed that finding and the Board affirmed. The Board did so on the basis of evidence that the symptoms predated claimant's employment with respondent,

a medical opinion that the work was not the cause of the symptoms, and evidence that claimant had attributed her symptoms to an automobile accident.

In this second hearing, claimant offers additional medical evidence in the form of a report from Dr. James L. Gluck. Dr. Gluck states his opinion that the condition is work related. In spite of this new evidence, the Administrative Law Judge again denied the requested benefits. He noted Dr. Gluck did not have complete or accurate history of claimant's problems and concluded the opinion was, for that reason, not persuasive.

The Appeals Board agrees with the conclusion of the Administrative Law Judge for the reasons stated and affirms the Order.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order entered by Administrative Law Judge Jon L. Frobish on June 3, 1999, should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of July 1999.

BOARD MEMBER

c: Joseph Seiwert, Wichita, KS
Ronald J. Laskowski, Topeka, KS
Jon L. Frobish, Administrative Law Judge
Philip S. Harness, Director