BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION

DENISE STARKS	)	
Claimant	)	
VS.	)	
	)	Docket No. 241,507
KANSAS BANK NOTE COMPANY, INC.	)	
Respondent	)	
AND	)	
	)	
ATLANTIC MUTUAL INSURANCE COMPANY	)	
Insurance Carrier	)	

ORDER

Respondent and its insurance carrier appeal from the preliminary hearing Order entered by Administrative Law Judge Jon L. Frobish dated March 24, 1999 [sic].

ISSUES

After finding claimant had met the requirements for an occupational disease, temporary total disability compensation and medical expenses were ordered paid by respondent.

Respondent contends claimant has failed to prove that her condition arose out of and in the course of her employment, as either a personal injury by accident or an occupational disease.

FINDINGS OF FACT

1. Claimant has worked for respondent since July of 1997.

2. On January 6, 1999 there was not any work to be done in the job that claimant normally performed and therefore her supervisor, Shirley Walton, assigned claimant to the task of working with the stamps. According to Ms. Walton claimant appeared normal in all respects on the morning of January 6, 1999, when she began working.

3. Working with the stamps involved sitting at a table wrapping and fanning through stacks of stamps which exposed her to tiny perforations containing glue that were flipped up into the air while she was fanning these stacks of stamps.

4. While performing this job claimant started having problems. First she noticed a rash and then she began having difficulty breathing.

5. Claimant went to her supervisor, Ms. Walton, who witnessed the reaction that claimant was having and drove claimant to the hospital. Ms. Walton reported to the doctors that claimant was suffering from a reaction possibly to the stamps and, furthermore, took a piece of the stamps with her to show the doctors.

6. Claimant described her condition as similar to the reaction she gets from bee stings. Her throat swelled shut and welts came up on her stomach and shoulders. She took a Benadryl capsule at work and later was given more Benadryl and also steroids at the emergency room. But they could not control her symptoms and so claimant was transferred from the hospital in Fredonia to Via Christi Medical Center in Wichita. She remained hospitalized for about five days.

7. Although claimant had handled stamps before, she had never wrapped stamps and fanned them like she did on January 6, 1999.

8. Claimant had been receiving treatment for asthma over the last several years from Dr. Ambrosio Mendiola. This included using an inhaler. During the episode at work on January 6, 1999 claimant tried using her inhaler but she said it did not help and could tell it was not just asthma that she was experiencing.

9. It had been four or five years since claimant had suffered a reaction to something in the environment like she did on January 6, 1999.

10. Dr. P. Brent Koprivica examined certain medical records at the request of respondent but did not conduct an examination of claimant. He also reviewed a product material safety data sheet. Dr. Koprivica opined that claimant had an acute anaphylactoid type of reaction on January 6, 1999, but he could not state based upon a reasonable degree of medical probability that the reaction was caused by the exposure in question.

11. Dr. Mendiola was claimant's personal physician and had treated her over a period of many years. In her doctor's opinion claimant's reaction was due to probable anaphylactic reaction to glue she came into contact with at work.

CONCLUSIONS OF LAW

Based upon the record presented, the Appeals Board finds it is more probable than not that claimant suffered an anaphylactic shock and/or an aggravation or exacerbation of her asthma due to the stamp glue exposure. Whether claimant suffered personal injury by accident or occupational disease, her need for medical treatment and temporary disability were due to her exposure to an allergen at work. Where the condition is compensable under either scenario, it is not necessary for purposes of an appeal from a

preliminary hearing order to classify claimant's condition as either an occupational disease or an accidental injury.[1]

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the March 24, 1999 [sic] Order entered by Administrative Law Judge Jon L. Frobish should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of June 1999.

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BOARD MEMBER

c: Roger A. Riedmiller, Wichita, KS
Denise E. Tomasic, Kansas City, KS
Jon L. Frobish, Administrative Law Judge
Philip S. Harness, Director

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[1] *See* K.S.A. 1998 Supp. 44-534a(a) and K.S.A. 1998 Supp. 44-551(a)(2)(A). *See also* Berry v. Boeing Military Airplanes, 20 Kan. App. 2d 220, 885 P.2d 1261 (1994).