BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION

LANA PASCHAL	)	
Claimant	)	
VS.	)	
	)	Docket No. 244,137
RENAL CARE GROUP	)	
Respondent	)	
AND	)	
	)	
CNA INSURANCE COMPANIES	)	
Insurance Carrier	)	

ORDER

Claimant appeals the January 24, 2001, Award of Administrative Law Judge John D. Clark. Claimant alleges she is entitled to a 14 percent permanent partial disability to the body as a whole on a functional basis based upon the opinion of P. Brent Koprivica, M.D. Respondent contends claimant failed to prove any permanency as a result of the alleged accidental injuries occurring from April 1998 through January 10, 2000. The Administrative Law Judge found claimant had not sustained her burden of proving that any physical problems that she had or has were caused by any environmental factors or exposures to noxious chemicals while working for respondent. All benefits were denied. The Board held oral argument on July 25, 2001.

APPEARANCES

Claimant appeared by her attorney, Joseph Seiwert of Wichita, Kansas. Respondent and its insurance carrier appeared by their attorney, D. Steven Marsh of Wichita, Kansas. There were no other appearances.

RECORD AND STIPULATIONS

The Appeals Board has considered the record and adopts the stipulations contained in the Award of the Administrative Law Judge. Additionally, the parties agreed at oral argument before the Board that claimant's average weekly wage on date of accident was $505.59. That issue is, therefore, no longer before the Board.

ISSUES

(1) Has claimant proven that she suffered accidental injury arising out of and in the course of her employment on the dates alleged?

(2) What is the nature and extent of claimant's injury? The parties agreed that claimant has, at most, sustained a functional impairment. As claimant is working at a comparable wage, no work disability is being claimed.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the entire evidentiary file contained herein, the Appeals Board finds that the Award of the Administrative Law Judge should be affirmed.

The Award sets out findings of fact and conclusions of law in some detail, and it is not necessary to restate those herein. The Board finds that the conclusions reached by the Administrative Law Judge are supported by the evidence and the Board affirms same as its own. The Board finds especially persuasive the opinion of Janice Mullinix, M.D., board certified in psychiatry and neurology. Dr. Mullinix found that claimant had not suffered any injury from environmental exposure to toxic chemicals at work, she had no neuropathy whatsoever, and there was no impairment from a neurologic standpoint. Additionally, the Board, likewise, found the opinion of John McMaster, M.D., to be persuasive that claimant suffered no injury, impairment or disability as a result of her employment with respondent. He further opined that there was no medical reason that claimant could not work in the dialysis center and he released her from his care.

Based upon a preponderance of the credible evidence, the Appeals Board finds claimant has failed to prove she suffered any type of permanent physical injury as a result of the alleged environmental exposures while employed with respondent. Claimant has also failed to prove that she suffered accidental injury arising out of and in the course of her employment with respondent, and, accordingly, all benefits are denied.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award of Administrative Law Judge John D. Clark dated January 24, 2001, should be, and is hereby, affirmed in all respects.

IT IS SO ORDERED.

Dated this ____ day of November, 2001.

_____
BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: Joseph Seiwert, Attorney for Claimant
D. Steven Marsh, Attorney for Respondent
John D. Clark, Administrative Law Judge
Philip S. Harness, Director