

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

TIMOTHY R. BALL)	
Claimant)	
VS.)	
)	Docket No. 256,116
A GOOD PLUMBER, INC.)	
Respondent)	
AND)	
)	
AMERICAN FAMILY MUTUAL INSURANCE CO.)	
Insurance Carrier)	

ORDER

Respondent appeals the August 29, 2000, preliminary hearing Order of Administrative Law Judge Jon L. Frobish. Claimant was awarded past and future medical treatment and temporary total disability compensation as a result of an injury suffered on May 9, 2000.

ISSUES

- (1) Did claimant prove that he suffered accidental injury arising out of and in the course of his employment on the date alleged?
- (2) Did claimant provide timely notice of accident pursuant to K.S.A. 44-520?

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based upon the evidence presented and for the purposes of preliminary hearing, the Appeals Board finds the Order of the Administrative Law Judge should be affirmed.

Claimant alleges accidental injury on or about May 9, 2000, while working as a plumber for respondent. Claimant began working for respondent on February 22, 2000. On the date alleged, claimant was working at a remote site when, while removing a jackhammer from his vehicle, he suffered an injury to his groin, hip and back. Claimant contacted respondent's president, Karen Dzatko, and advised her that he had suffered an

injury and needed help. Ms. Dzatko then dispatched another plumber to the job site to assist claimant.

Respondent provides substantial evidence in the record to question claimant's credibility. However, respondent provides no evidence to contradict claimant's description of the accident. Additionally, Ms. Dzatko acknowledges claimant contacted her on the morning of May 9, 2000, and advised her that he had suffered some type of an injury. She then dispatched another plumber to help claimant. This testimony by Ms. Dzatko, coupled with claimant's testimony, convinces the Appeals Board that claimant did suffer a work-related accidental injury on the date alleged and did provide timely notice of accident on the date of accident, well within the time limits set forth in K.S.A. 44-520. Therefore, the Appeals Board finds that the Administrative Law Judge's decision that claimant did prove accidental injury arising out of and in the course of his employment and did provide timely notice should be affirmed.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Jon L. Frobish dated August 29, 2000, should be, and is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of October 2000.

BOARD MEMBER

c: Randy S. Stalcup, Wichita, KS
William L. Townsley, III, Wichita, KS
Jon L. Frobish, Administrative Law Judge
Philip S. Harness, Director