



The respondent acknowledges an injury to claimant's left ring finger on or about May 17, 1994 but denies claimant suffered injury to her left hand, arm, shoulder, neck and head arising out and in the course of her employment on that date. The respondent further objects to claimant being provided authorized medical care for any portion of her anatomy other than the finger.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Based upon the evidence presented and for purposes of preliminary hearing, the Appeals Board finds:

K.S.A. 44-551(b)(2)(A) provides that the Appeals Board shall not review a pending preliminary hearing order entered by the Administrative Law Judge unless it is alleged that the Administrative Law Judge exceeded his or her jurisdiction in granting or denying the relief requested. K.S.A. 44-534a makes applicable to both claimant and respondent the specific criteria set forth when appealing from a preliminary hearing order of an Administrative Law Judge. Preliminary hearing findings with regard to the following disputed issues shall be considered jurisdictional and subject to review by the Appeals Board:

- (1) Whether the employee suffered an accidental injury;
- (2) Whether the injury arose out of and in the course of employee's employment;
- (3) Whether notice is given or claim timely made;
- (4) Whether certain defenses apply.

In the instant case the Administrative Law Judge granted claimant temporary total disability benefits and ongoing medical care to her upper extremity, head and neck. Respondent has acknowledged claimant suffered an injury to her left ring finger when she ran into a cooler door while carrying stacks of pizza pans. Respondent denies that claimant's accident resulted in injury to her hand, arm, shoulder, neck, or head for which she is currently seeking treatment.

The Appeals Board finds that this issue is not one listed in K.S.A. 44-534(a) as jurisdictional but, rather, one involving the nature and extent of claimant's injury. The Appeals Board further finds that it does not have the jurisdiction to entertain this appeal of a preliminary hearing as the Administrative Law Judge did not exceed her jurisdiction in granting claimant's request for temporary benefits and ongoing medical care.

### **AWARD**

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Nelsonna Potts Barnes dated August 11, 1994, remains in full force and effect.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of November, 1994.

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BOARD MEMBER

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cc: Dennis Phelps, Wichita, KS 67214  
Kim R. Martens, Wichita, KS 67202  
Cortland Q. Clotfelter, Wichita, KS 67203-3956  
Nelsonna Potts Barnes, Administrative Law Judge  
George Gomez, Director