BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

DARRELL W. BUTTS Claimant

VS.

LITTLE CAESAR'S PIZZA

Respondent

AND

GRANITE STATE INSURANCE COMPANY Insurance Carrier

ORDER

Respondent appeals from a December 30, 1994, Preliminary Hearing Order by Administrative Law Judge Nelsonna Potts Barnes which granted claimant's request for payment of certain outstanding medical expenses as authorized medical.

ISSUES

On appeal, respondent contends the Administrative Law Judge exceeded her jurisdiction in granting benefits because the evidence does not establish that claimant incurred the expenses for medical treatment as the result of an accidental injury which arose out of and in the course of the claimant's employment with the respondent. Respondent contends that the claimant suffered an intervening accident which occurred subsequent to his employment with the respondent.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments of the parties, the Appeals Board finds claimant's apparent need for medical treatment is the result of a personal injury by accident which arose out of and in the course of claimant's employment with the respondent. This conclusion by the Appeals Board is based upon the uncontroverted medical evidence, which indicates the claimant's injury is probably the result of his March 27, 1994 accidental injury at Little Caesar's Pizza.

The Appeals Board understands that the medical opinions contained in the records introduced for purposes of preliminary hearing may not have been made with the benefit of a full and complete history of claimant's condition and complaints. Those opinions can certainly be challenged and may, in fact, be changed by the respective physicians when

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faced with additional information. Nevertheless, as the record currently exists, those opinions are uncontradicted and we do not find them to be so improbable or unreasonable as to be considered untrustworthy and therefore they will not be disregarded. The Order for benefits should, therefore, be affirmed.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the December 30, 1994 Order of Administrative Law Judge Nelsonna Potts Barnes should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this _____ day of April, 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Robert R. Lee, Wichita, KS Kim R. Martens, Wichita, KS Nelsonna Potts Barnes, Administrative Law Judge George Gomez, Director