

STATE OF WISCONSIN

BEFORE THE STATE BOARD OF PERSONNEL

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Eleanor M. Licht,

Appellant,

vs.

Wilbur J. Schmidt, Secretary,  
Department of Health and Social Services  
and C. K. Wettengel, Director, State  
Bureau of Personnel,

Respondents.  
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) FINDINGS OF FACT

) AND

) CONCLUSIONS OF LAW  
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This matter set for hearing on May 12, 1972, at 10 a.m. in the Eau Claire State Office Building, John A. Serpe, acting chairman, and Charles Brecher, appeared on behalf of the Board. The Appellant appeared personally and without counsel, and the respondent appealed by D. J. Sterlinske, Attorney. From the evidence produced from the hearing, the board makes the following findings of fact:

FINDINGS OF FACT

1. Eleanor M. Licht is a classified State employe with the State Department of Health and Social Services, Division of Mental Hygiene and stationed at the Northern Wisconsin Colony and Training School at Chippewa Falls, Wisconsin and has the civil service title of Food Service Worker 3.

2. The Appellant was initially injured on or about May 23, 1969, and made application for full pay under the provision of section 16.31 Wis. Stats. This application was approved by her em-

ploying department and she continued to receive her full monthly salary as the result of this injury for the period she was unable to work. She also received Workmans Compensation Benefits for the payment of medical expenses and was further awarded a 5 per cent permanent-partial disability as the result of limited back movement.

3. The Appellant returned to work on a full time basis and on the 28th of February, 1972, while working in the dining room of cottage 3, aggravated her former injury.

4. As the result of this injury and inability to work, the Appellant on March 20, 1972, made application again for full pay under the provision of section 16.31 Wis. Stats. alleging the injury was an aggravation of the 1969 back injury. This application was denied on March 22, 1972 by Superintendent A. C. Nelson for the reason that the circumstances surrounding the current lifting injury did not authorize the requested remedy. The State Bureau of Personnel concurred in this denial April 3, 1972.

5. The Appellant, by letter dated April 13, 1972, received by the Personnel Board on April 17, 1972 timely appealed this denial to the State Personnel Board.

6. On the date of injury, an accident report was filed in the usual course of business signed by the Appellant stating, "While working in the dining room of cottage 3, I felt a strain on my former neck and back injury as I lifted a can of milk and a can of coffee

of coffee off the top food cart Monday evening."

7. That the evidence clearly shows that the Appellant's injury was as a result of and occasioned by a lifting operation in the food service area during the course of her employment.

8. That the back injury was not caused by any of the circumstances authorized by the provisions of section 16.31 (3) (C), and that the provisions of this section are not applicable.

CONCLUSIONS OF LAW

1. That the denial of benefits by the appointing authority and concurred therein by the State Bureau of Personnel is hereby ordered sustained.

2. That the Appellants appeal from such denial be dismissed with prejudice on its merits.

Dated at Madison, Wisconsin, this 19th day of June, 1972.

STATE BOARD OF PERSONNEL

BY: \_\_\_\_\_  
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\_\_\_\_\_  
JUN 1 1972

ORDER

The State Board of Personnel having heard this matter and issued its findings of fact and conclusions of law, make the following order:

1. That the denial of benefits of full pay while injured by the appointing authority and concurred therein by the State Bureau of Personnel is hereby ordered sustained.

2. That the Appellants appeal from such denial be dismissed with prejudice on its merits.

Dated at Madison, Wisconsin

This \_\_\_\_\_ day of June, 1972.

STATE BOARD OF PERSONNEL

BY: \_\_\_\_\_

ACTING CHAIRMAN