

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Employment Services
Labor Standards Bureau

Office of Hearings and Adjudication
COMPENSATION REVIEW BOARD



(202) 671-1394-Voice
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CRB No. 07-32

HORACE HENSLEY,

Claimant – Petitioner

v.

CHEECHI & COMPANY AND ATLANTIC MUTUAL INSURANCE,

Employer/Carrier – Respondent.

Appeal from an Order of
Administrative Law Judge Melissa Lin Klemens
AHD No. 92-359H, OWC No. 115568

Horace Hensley, pro se Petitioner

Alan M. Carlo, Esquire, for the Respondent

Before: FLOYD LEWIS, LINDA F. JORY and JEFFREY P. RUSSELL, *Administrative Appeals Judges.*

FLOYD LEWIS, *Administrative Appeals Judge*, on behalf of the Review Panel:

ORDER OF DISMISSAL

Jurisdiction is conferred upon the Compensation Review Board pursuant to D.C. Official Code §§ 32-1521.01 and 32-1522 (2004), 7 DCMR § 230, and the Department of Employment Services Director's Directive, Administrative Policy Issuance 05-01 (February 5, 2005).¹

¹ Pursuant to Administrative Policy Issuance No. 05-01, dated February 5, 2005, the Director of the Department of Employment Services realigned the Office of Hearings and Adjudication to include, *inter alia*, establishment of the Compensation Review Board (CRB) in implementation of the District of Columbia Fiscal Year 2005 Budget Support Act of 2004, Title J, the D.C. Workers' Compensation Administrative Reform and Anti-Fraud Amendment Act of 2004, sec. 1102 (Oct. 1, 1994), *codified at* D.C. Code Ann. §§ 32-1521.01, 32-1522 (2005). In accordance with the Director's Policy Issuance, the CRB replaces the Office of the Director in providing administrative appellate review and disposition of workers' and disability compensation claims arising under the D.C. Workers' Compensation Act of 1979, as amended, D.C. Code Ann. §§ 32-1501 to 32-1545 (2005) and the D.C. Government Comprehensive Merit Personnel Act of 1978, as amended, D.C. Code Ann. §§ 1-623.1 to 1.643.7 (2005), including responsibility for administrative appeals filed prior to October 1, 2004, the effective date of the D.C. Workers' Compensation Administrative Reform and Anti-Fraud Amendment Act of 2004.

In an Order, which was filed on January 19, 2007, the Administrative Law Judge (ALJ) held in abeyance the issuance of a Compensation Order in this case, until other outstanding matters between these parties become final, for jurisdictional reasons and to avoid inconsistent Orders. Claimant-Petitioner (Petitioner) now appeals that Order.

Petitioner alleges that the ALJ's decision is erroneous and requests that the ALJ be directed to issue a schedule award based on the evidence in the record. Employer-Respondent (Respondent) counters that Petitioner's appeal should be dismissed, as the ALJ's Order of January 19, 2007 simply stays this matter and is not final.

On October 28, 2005 Petitioner filed an application for a formal hearing on the issue of a schedule award and a formal hearing was held before ALJ Malcolm J. Luis-Harper. ALJ Harper resigned from AHD before a decision was issued and the matter was reassigned to the ALJ Klemens. In the instant Order, the ALJ noted that there are several outstanding pending matters involving these parties, including appeals before the District of Columbia Court of Appeals and the CRB. The ALJ ruled that until these other matters are resolved, any action on this instant matter would be held in abeyance.

After reviewing the record in this matter, it is concluded that Petitioner's appeal must be dismissed. For jurisdictional reasons and in order to avoid inconsistent Orders, the ALJ decided to stay the issuance of a Compensation Order in this matter, until these other matters are resolved. This is not a final decision resolving the issue of Petitioner's request for a schedule award, which would be ripe for appeal to the CRB. D.C. Official Code § 32-1522. This Panel concludes that there was no abuse of discretion by the ALJ in holding this matter in abeyance until these other matters are resolved, as there was "no claim of irreparable harm or clear error of law that would overcome the interests of judicial economy and efficiency of avoiding piecemeal appeals." *Warner v. Dist. of Columbia Dep't. of Employment Servs.*, 587 A.2d 1091, 1094 (D.C. 1991).

Accordingly, Petitioner's Application for Review is hereby DISMISSED.

FOR THE COMPENSATION REVIEW BOARD:

FLOYD LEWIS
Administrative Appeals Judge

March 7, 2007
DATE