

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Department of Employment Services

VINCENT C. GRAY
MAYOR



F. THOMAS LUPARELLO
INTERIM DIRECTOR

COMPENSATION REVIEW BOARD

CRB No. 12-194 (R)

**COLICCHIO PROCTOR,
Claimant,**

v.

**DISTRICT OF COLUMBIA PUBLIC SCHOOLS,
Self-Insured Employer.**

On Remand from the District of Columbia Court of Appeals,
No. 13-AA-630, July 31, 2014), AHD PBL No. 06-105A, DCP No. 760002-1999-0023

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BOARD
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Harold L. Levi for the Claimant
Andrea G. Comentale for the Self-Insured Employer

REMAND ORDER

On July 31, 2014, the District of Columbia Court of Appeals (DCCA) issued an Opinion in this case that reversed the Compensation Review Board's (CRB) May 14, 2013 decision. The CRB's decision had affirmed the November 21, 2012 Compensation Order issued by an Administrative Law Judge (ALJ) that reinstated Claimant's temporary total disability benefits. The ALJ held that the repeal of a statutory provision giving the treating physician's testimony preference revived the common law rule that gave preference to the treating physician's testimony.

The DCCA disagreed and held:

The legislative history manifests a clear and unmistakable intent on the part of Council to accord equal weight to the testimonies of both treating and non-treating physicians in public-sector cases brought under the (District of Columbia Comprehensive Merit Personnel Act).

Therefore, consistent with the DCCA's decision, the Award in the ALJ's November 21, 2012 Compensation Order is vacated and this case remanded to the Administrative Hearings Division for additional proceedings that are consistent with the DCCA's July 31, 2014 Opinion.

FOR THE COMPENSATION REVIEW BOARD:

/s/ Lawrence D. Tarr
LAWRENCE D. TARR
Chief Administrative Appeals Judge

August 19, 2014
DATE