EDWARD HILL, JR.,	:	
Claimant	:	
v.	:	Dir. Dkt. No. 96-39
	:	H&AS NO. 87-759(B)
GREYHOUND LINE INC.,	:	OWC No. 0115712
and	:	
GAB BUSINESS SERVICES,	:	
Employer/Carrier	:	

An Appeal from the Supplementary Compensation Order issued by the Chief Hearing Examiner, Sharman J. Monroe

Edward C. Hill, Jr., Pro Se
Claimant

Stephen P. Zachary, Esquire
for Employer/Carrier

DECISION OF THE DIRECTOR

I. Preliminary Statement

This proceeding arises out of a claim for workers' compensation benefits filed pursuant to the provisions of the District of Columbia Workers' Compensation Act of 1979, as amended, D.C. Law 3-77, D. C. Code, §36-301 *et seq.* (1981 Edition, as amended) (hereinafter, the "Act").

The above captioned case has been before the Director on numerous occassions since January, 1990. The crux of the many appeals, motions, and pleadings presented at this level and the Hearing and Adjudications level, request Agency consideration of claimant's discontent with employer's alleged failure to comply

with all monetary awards and/or payments due and owing to claimant. As a consequence of claimant's identical arguments filed herein, the Director has consolidated claimant's repetitive appeals into one Application for Review for a comprehensive, inclusive resolution.

II. Background

On December 29, 1989, a Compensation Order was issued denying claimant's claim for temporary total disabiity benefits for an emotional injury allegedly suffered as the result of a bus accident on January 25, 1987. Thereafter, claimant, without legal representation, filed an Application for Review with the Office of the Director.

Subsequently, the Director issued a Remand Order dated March 1, 1991 which reversed and set aside that portion of the Compensation Order which failed to find work related stressors arising out of and in the course of claimant's employment. In that Order, the Director specifically instructed the Hearing Examiner to consider additional factors in re-evaluating all findings presented therein. Thereafter, the Hearing Eaminer found that claimant's stressors arose out of and in the course of his employment. Thus, the Hearing Examiner issued a June 30, 1992 Compensation Order awarding temporary total disability benefits from February 19, 1987 to June 1, 1988, from June 8, 1988 to June 13, 1988 and from October 25, 1988 to December 23, 1988 with a credit to the employer equaling the amount paid in sick leave benefits. The employer was further ordered to pay all reasonably related medical expenses.

On March 21, 1994, the Director issued a Limited Remand affirming the June 30, 1992 Compensation Order on Remand, but remanding a portion of the case for findings of fact and conclusions of law on claimant's request for a 20% penalty assessment under D.C. Code §36-315(f) and on the issue of whether or not the employer took a larger credit than that stipulated to by the parties.

Claimant filed a December 14, 1994 Application for Review of a Compensation Order on Limited Remand (wherein all claimant's concerns and appeals have been consolidated) issued on November 30, 1994.

III. Discussion

The Director of the Department of Employment Services (hereinafter, "Director") must affirm the Compensation Order under review if the findings of fact contained therein are supported by substantial evidence in the record considered as whole and if the law has been properly applied. **See**, D. C. Code, §36-301; 7 D.C.M.R. Employment Benefits §230. Substantial evidence is such relevant evidence as a reasonable mind might find as adequate to support a conclusion. **George Hyman Construction Company v. Department of Employment Services**, 498 A.2d. 563,566 (D.C. 1985).

In his appeal, the claimant essentially requests that the employer be ordered to: (1) pay the correct amount of benefits due and owing, (2) pay all related medical expenses, (3) "assess an 8% per annum on benefits unpaid from February 19, 1987 to March 16, 1987 to the present," (4) pay a penalty of 20% on all benefits due per the Compensation Order of June 30, 1992, and, (5) respond to the show cause orders issued by the office of Hearings and Adjudication.

Claimant was awarded an aggregate amount of $24,067.95 in temporary total diasbility benefits. Claimant argues that to date, the employer has paid $23,931.92 leaving an unpaid amount of $136.03. The claimant is of the opinion that the unpaid balance is subject to an increase, as the monies now comprise a late or untimely payment of ordered benefits.

The record reflects that claimant is not owed $136.03 or any additional calculation of monies thereon. It is undisputed in the record that the employer is entitled to a credit for sick leave benefits in the amount of $996.60. Claimant, by his own admission, concedes that "correct" payment of his benefits are $24,067.95 minus $966.60 sick leave credit totalling $23,071.35. **See Claimant's pleading, Penalties per §36-315(f), dated October 26, 1992, page 4, #12.** Per the administrative action ordered in the Director's March 21, 1994 Limited Remand, wherein claimant's entitlement to benefits was affirmed, the employer issued a check to claimant in the amount of $23,931.92. As this amount was $860.57 more than was owed, the employer simply retained $136.03 so that its undisputed credit amount of $996.60 would be properly recorded and reimbursed to the employer. ($860.57 plus $136.03 equals $996.60) Thus, the correct amount of benefits due to claimant has been paid and the payment satisfies the administrative orders issued by this Agency.

As to claimant's third argument on interest, the Hearing Examiner ruled in an Amended Supplementary Compensation Order dated March 22, 1996, that the claimant is entitled to interest on his disability benefits awarded in the June 30, 1992 Compensation Order on Remand. The Director concurs with this ruling. In the case of **Bolden v. Embassy Dairy,** H&AS No.83-192, OWC No. 001777 (February 15, 1984), it was held that interest is assessable on accrued benefits. The Director therefore acknowledges that an oversight has occurred with respect to the awarding of interest in this case. Accordingly, the Director orders that the employer pay to claimant interest on temporary total disability benefits from February 19,1987 to June 1, 1988, from June 8, 1988 to June 13, 1988 and from October 25, 1988 to December 23, 1988. Said interest, as ordered by the Hearing Examiner in the Amended Supplementary Compensation Order (March 22, 1996), shall be paid at the rate payable at the D.C. Superior Court on judgments.
7 D.C.M.R. §209.11 and §221.5 Employment Benefits. Inasmuch as the oversight on interest has been corrected herein, the Director takes this opportunity to state that the portion of the Order of the Director issued on June 16, 1994 which denies claimant interest is hereby vacated and set aside.

To date, claimant still insists that there are causally related medical expenses that the employer has failed to pay. The record is devoid of an explanation proffered by the employer for the nonpayment. Again, the Director re-emphasizes to the employer its obligation to pay all reasonably related medical expenses that have not been paid as set forth in §36-307 of the D.C. Code, §8 of the Act.

The assessment of a penalty on benefits from February 1987, to March 16, 1987 has been previously addressed by the Director in a 1994 Order. In that Order, the Director ruled that the record substantial evidence indicated that no penalty and or interest was due to claimant based on his D.C. Code §36-315(e) argument. **See Hill v. Greyhound Lines, Inc. Dir. Dkt. No. 92-32 (Order of the Director, June 16, 1994).** As for additional monies (penalties) after March 16, 1987, the Director addresses that portion of claimant's concern in the ensuing paragraph.

Claimant's request for a 20% penalty pursuant to D.C. Code §36-315(f) on all benefits awarded in this case is denied. §36-315(f) in pertinent part reads:

> If any compensation, payable under the terms of an award, is not paid within 10 days after it becomes due, there shall be added to such unpaid compensation an amount equal to 20% thereof, . . .

Again, the record evidence indicates that all benefits awarded to claimant was paid to him in a timely manner. The employer received the Compensation Order on Remand dated June 30, 1992, on July 6, 1992. Therefore the payment of benefits was due to claimant by July 16, 1992. The check from employer to claimant was mailed to claimant on July 14, 1992.

Despite the timeframe in which the check was mailed to him, claimant insists that §36-315(f) is applicable. It is claimant's testimony that the employer did not pay the awarded benefits until October 14, 1992. The substantial evidence shows that the check(s) for payment on October 14, 1992, were checks representing the alleged credit due to employer. As the Hearing Examiner noted in the Limited Remand, "the Act does not require the payment of credits within a set timeframe after an award." Claimant then responded that the Notice of Final Payment was not recorded within 16 days after the final payment, thereby indicating that the benefits were paid to him untimely. However, the claimant was properly informed that failure to file said notice within a timeframe prescribed by the Act is not indicative of the untimely payments of benefits. The Hearing Examiner then explained to claimant that had timeliness been an issue, the dating, mailing and receipt of the checks occurred within a reasonable amount of time. **See Compensation Order on Limited Remand**, H&AS No. 87-759(B), OWC No. 0115712 (November 30, 1994). Hence, no monies are due to the claimant for this item.

Herein, the record reflects that a credit in the amount of $1,221.53 is owed to the employer. Earlier discussion relating to this issue shows that the employer has already received $996.60 of that amount. Therefore, the outstanding amount of credit totals $224.93. If this amount has not been received by employer, it is ordered that said amount is paid effective the date of this decision. **See Compensation Order on Limited Remand II**, H&AS No. 87-759(B), OWC No. 0115712 (August 2, 1995).

While claimant requests that the Director make a ruling on Show Cause Orders issued by the Office of Hearings and Adjudications, the Director is unable to do so at this time. The resolution of the Orders in question are still pending before the Office of Hearings and Adjudications. Hence, jurisdictionally, the orders are not yet ripe for review by the Director.

IV. Disposition

Accordingly, in the case of **Edward Hill v. Greyhound Bus lines, Inc.**, the employer is ordered to adhere to the following administrative actions:

(1) To pay all remaining, if any, causally related medical expenses that claimant has incurred as a result of his work related disability.

(2) To pay interest on the accrued disability benefits pursuant to the discussion detailed herein.

The claimant's request for penalties in this case is again denied. A credit in the amount of $224.93, if not previously remitted, is due to the employer effective the date of this decision.

F. Alexis H. Roberson
Director

JAN 3 1 1997

Date _____