

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Department of Employment Services

MURIEL BOWSER
MAYOR



DEBORAH A. CARROLL
DIRECTOR

COMPENSATION REVIEW BOARD

CRB No. 14-093(1)

**GERALDINE TALLEY HOBBY,
Claimant-Petitioner,**

v.

**DISTRICT OF COLUMBIA PUBLIC SCHOOLS,
Employer-Respondent.**

DEPT. OF EMPLOYMENT
SERVICES
COMPENSATION REVIEW
BOARD
2015 MAY 14 AM 11 09

On Reconsideration of a Decision and Dismissal Order issued April 1, 2015
CRB No. 14-093, ECAB No. 09-07, OHA No. 97-36, OBA No. 337470

Geraldine Talley Hobby for the Petitioner
Andrea G. Comentale for the Respondent

Before MELISSA LIN JONES, HEATHER C. LESLIE, and JEFFREY P. RUSSELL *Administrative Appeals Judges.*

MELISSA LIN JONES for the Compensation Review Board.

ORDER DISMISSING REQUEST FOR RECONSIDERATION

FACTS OF RECORD AND PROCEDURAL HISTORY

On February 22, 1990, Ms. Geraldine Talley Hobby slipped and fell while working as a full-time art teacher at Kimball Elementary School and a part-time director at Stoddert Terrace Early Childhood Center. Ms. Hobby had a history of back and neck pain, but on February 22, 1990, she twisted her left ankle and hit her head and neck when she landed on her back.

Ms. Hobby's claim was accepted for sprains to her cervical, dorsal, and lumbar back and her left ankle. Ms. Hobby's benefits were terminated in a March 1, 1997 Denial of Award for Compensation Benefits.

On September 24, 1997, Hearings and Appeals Examiner Robert R. Middleton presided over a formal hearing. At that proceeding, Ms. Hobby sought restoration of temporary total disability

compensation benefits. Examiner Middleton denied Ms. Hobby's claim for relief because her work-related injuries had healed, but he recommend that wage loss benefits that had been paid be recalculated to reflect wage stacking from Ms. Hobby's concurrent jobs and that Ms. Hobby's travel expenses be assessed. *Hobby v D.C. Public Schools*, H&AS No. PBL97-036, ODC No. 337470 (March 30, 1998).

The Deputy Director for Labor Standards adopted the Recommended Compensation Order as a Final Compensation Order on March 30, 1998. Pursuant to the procedures in place at that time, Ms. Hobby appealed her case to the Director of the Department of Employment Services ("Director").

On July 23, 1999, the Director affirmed the rulings regarding wage stacking and travel expenses, but he remanded the matter for clarification regarding Ms. Hobby's request for temporary total disability benefits because Ms. Hobby's medical records

support Petitioner's contention that she is temporarily totally disabled for work as a result of the Petitioner's February 22, 1990 work injuries. Therefore, the Hearing Examiner's conclusion that the aforementioned physicians' medical opinions were too remote to be probative of Petitioner's present medical condition is not supported by the evidence on record.

It is further noted that the decision of the Hearing Examiner failed to make any findings in regards to the medical opinion of Dr. Archer. That decision did not explain with specificity how the Petitioner's medical evidence fails to support a finding that she can no longer return to the duties of an art teacher due to residuals of the 1990 work related injury. *See Chase*, ECAB No. 82-9 (July 9, 1982); *Rose*, ECAB No. 82-57 (August 31, 1983). In addition, the Hearing Examiner failed to make a finding as to why the reports of Petitioner's treating physician's [*sic*] were not given deference over the reports of the independent medical specialists.

Hobby v. D.C. Public Schools, ECAB No. 98-07, H&AS No. PBL97-036, DDCC No. 337470 (July 23, 1999). The Director affirmed the hearing examiner's rulings that Ms. Hobby was entitled to wage stacking and travel expenses. *Id.* at p. 4.

On remand, Examiner Middleton again denied Ms. Hobby's request for temporary total disability benefits. Interim Assistant Director for Labor Standards Charles L. Green adopted Examiner Middleton's Recommended Compensation Order as the Final Compensation Order on August 18, 1999. *Hobby v D.C. Public Schools*, ECAB No. 98-007, H&AS No. PBL97-036, ODC No. 337470 (August 18, 1999). Ms. Hobby filed another appeal, and the Director affirmed. *Hobby v. D.C. Public Schools*, Dir. Dkt. No. 98-07, H&AS No. PBL97-036, ODC No. 337470 (November 18, 1999).

On July 24, 2014, Ms. Hobby filed with the Compensation Review Board ("CRB") a "Chronological History An[d] Overall Timeline of Issues and Facts" under cover entitled "Wrongful Fraudulent Termination of Employment Wrongful Fraudulent Termination of

Disability Compensation Benefits” (“Chronology”). In this document Ms. Hobby alleged she was “wrongfully and unlawfully terminated of my employment on May 15, 1995 retroactive to May 4, 1990, while I was receiving disability compensation benefits from my February 22, 1990 work related injury.” Chronology at unnumbered p. 2. Ms. Hobby also alleged that as a result of “a prior work related injury under the U.S. Department of Labor,” her “compensation benefits/disability compensation benefits were terminated without due process of the Law, which violates the U.S. Constitution.” *Id.* Many of Ms. Hobby’s arguments may be summarized by her own words:

The D.C. Government’s Office of Disability Compensation/Risk Management has devised a plan to eliminate claimant’s from the benefits payroll, rat[h]er than exercising sound judgment by the administration of the law and justice, in handling my case, as well as the cases of other employees, who have given years of dedicated and committed service to this great city of Washington, D.C., the Nation’s Capitol and an example to the whole country and the World (under D.C. and Federal Law.[])

Id. at unnumbered p. 3. Specifically, in a complaint dated May 30, 2006, Ms. Hobby alleged the following improprieties (among others):

- Failure to apply a federal treating physician preference rule;
- A subsequent recurrence not addressed by the Office of Disability Compensation or Office of Risk Management;
- An unfair and unjust, fraudulent, erroneous, and unsubstantiated hearing;
- Numerous procedural complaints; and
- Substantial competent evidence including newly discovered evidence that was ignored or not given proper weight.

Id. at unnumbered pp. 3-6. Ms. Hobby raised these, similar, and other complaints before the District of Columbia City Council on multiple occasions. *Id.* at pp. 7-10, 18-20.

At various points throughout her submissions, Ms. Hobby demanded restoration of her quality of life, retroactive reinstatement and restoration of workers’ compensation disability benefits, interest, penalties, compensatory damages, and punitive damages.

In response to Ms. Hobby’s submissions, the District of Columbia Public Schools (“Employer”) asserted Ms. Hobby’s appeal was not timely. Employer also raised the defenses of *res judicata* and collateral estoppel. Employer requested the CRB deny Ms. Hobby’s request for review.

In her reply, Ms. Hobby offered detailed lists of her complaints regarding the decisions issued in her case. Ms. Hobby provided a “Historical Summary Of The Public Sector Workers Compensation Disability Program” and requests “a REVIEW of the WHOLE RECORD from the D.C. OFFICE OF RISK MANAGEMENT (O.R.M.) and the CASE FILE/RECORD at the storage of the OFFICE OF LABOR STANDARDS’S OFFICE OF HEARINGS ADJUDICATION and APPEALS,” Geraldine Talley Hobby Response, unnumbered p. 7, so fraud, mistakes, errors, and incompetence can be eradicated and so newly discovered evidence

can be reviewed. In addition, Ms. Hobby asserted Examiner Middleton, Betty Franklin (counsel for Employer at the formal hearing), David Cohen (Ms. Hobby's attorney at the formal hearing), and Gregory P. Irish (former Director of the Department of Employment Services) were not barred in the District of Columbia. Finally, Ms. Hobby asserted *res judicata* did not apply to workers' compensation disability cases in the District of Columbia. For these reasons and others, Ms. Hobby requested the CRB restore payment of workers' compensation disability benefits.

On March 4, 2015, Ms. Hobby filed a "Notice in Response to Your Letters Dated: January 13, 2015 [*sic*] & January 15, 2015." Ms. Hobby asserted her workers' compensation case was a federal matter because she was hired on January 6, 1967.

The Compensation Review Board issued a Decision and Dismissal Order on April 1, 2015. Because Ms. Hobby's appeal was not filed timely, it was dismissed.

On April 28, 2015 without filing a copy with the CRB, Ms. Hobby filed a Petition for Review with the District of Columbia Court of Appeals (Case No. 15-AA-466). Then, on April 29, 2015, Ms. Hobby filed a Petition for Reconsideration [*sic*] ("Petition"). In her Petition, Ms. Hobby listed five questions under the heading "Freedom of Information Questions F.O.I.A. Policies, Procedures, Practices & Process of Law: Let's Start Here."

The CRB issued an Order Regarding *Ex Parte* Petition for Reconsideration on May 1, 2015. Because Ms. Hobby had not served her Petition on Employer, the CRB provided a copy to Employer. In addition, the CRB gave Employer until the close of business on May 11, 2015 to respond to the Petition. Employer did not file a response to the Order Regarding *Ex Parte* Petition for Reconsideration.

First, although a party may file a request for reconsideration with the CRB, if the same matter is on appeal to the District of Columbia Court of Appeals, the CRB loses jurisdiction over the case. *Harris v. Cianbro Corporation*, Dir. Dkt. No. 99-85, H&AS No. 98-86A, OWC No. 5207111 (June 22, 2000). Furthermore, none of the questions in Ms. Hobby's Petition constitutes a legal argument regarding the substantive matters addressed in the April 1, 2015 Decision and Dismissal Order. Moreover, pursuant to 7 DCMR § 268.1, "Any party may, within ten (10) calendar days from the date shown on the certificate of service of the Decision and Order of the Board or of any order issued by the Board, file a request for reconsideration thereof with the Clerk of the Board." The CRB issued its Decision and Dismissal Order on April 1, 2015. Ten calendar days after April 1, 2015 was April 11, 2015. Because April 11, 2015 fell on a Saturday, Ms. Hobby's Petition would have had to have been filed no later than April 13, 2015; it was not filed until April 29, 2015 and is not timely.

CONCLUSION AND ORDER

Ms. Hobby's Petition for Reconsideration is DISMISSED. Any remaining issues are beyond the CRB's jurisdiction.

FOR THE COMPENSATION REVIEW BOARD:



MELISSA LIN JONES
Administrative Appeals Judge

May 14, 2015
DATE