

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

Office of Hearings and Adjudication
COMPENSATION REVIEW BOARD



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CRB (Dir.Dkt.) No. 05-246

TIMOTHY HARRIS,

Claimant – Petitioner,

v.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY,

Self-Insured Employer– Respondent.

Appeal from a Compensation Order of
Administrative Law Judge Amelia G. Govan
AHD No. 05-011A, OWC No. 601818

Timothy J. Driscoll, Esquire, for the Petitioner

David H. Jacobs, Esquire, for the Respondent

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

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

DECISION AND ORDER

JURISDICTION

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.

BACKGROUND

This appeal follows the issuance of a Compensation Order from the Administrative Hearings Division (AHD) of the Office of Hearings and Adjudication (OHA) in the District of Columbia Department of Employment Services (DOES). In that Compensation Order, which was filed on June 8, 2005, the Administrative Law Judge (ALJ) denied the relief requested by Claimant-Petitioner (Petitioner) because of Petitioner's receipt of benefits in the state Maryland for the instant claim. Petitioner now seeks review of that Compensation Order.

As grounds for this appeal, Petitioner alleges as error that the Compensation Order is unsupported by substantial evidence.

ANALYSIS

As an initial matter, the scope of review by the Compensation Review Board (CRB) and this Review Panel, as established by the Act and as contained in the governing regulations, is limited to making a determination as to whether the factual findings of the Compensation Order are based upon substantial evidence in the record, and whether the legal conclusions drawn from those facts are in accordance with applicable law. D.C. Official Code §32-1522(d)(2). "Substantial evidence," as defined by the District of Columbia Court of Appeals, is such evidence as a reasonable person might accept to support a particular conclusion. *Marriott Int'l. v. Dist. of Columbia Dep't. of Employment Servs.*, 834 A.2d 882 (D.C. App. 2003). Consistent with this scope of review, the CRB and this Review Panel are constrained to uphold a Compensation Order that is supported by substantial evidence, even if there is also contained within the record under review substantial evidence to support a contrary conclusion, and even where the reviewing authority might have reached a contrary conclusion. *Marriott*, 834 A.2d at 885.

As ground for this appeal, Petitioner alleges as error that the ALJ's decision is contrary to the Director's Decision and Remand Order in the case of *Walker v. Washington Metropolitan Area Transit Authority*, Dir. Dkt. No. 00-35, OHA No. 00-153 (June 7, 2002), in which the Director concluded that the receipt of benefits in a situation nearly identical to the instant claim did not bar the claim. Employer-Respondent (Respondent) contends that the Compensation Order is supported by substantial evidence and should be affirmed.

In this instant matter, Petitioner received compensation benefits in Maryland related to his April 19, 2004 work injury and in May of 2004, Petitioner filed a claim, related to the same accident, in the District of Columbia. The ALJ concluded that Petitioner's claim for benefits was barred by his receipt of Maryland workers' compensation benefits for this claim, citing cases such as *Springer v. Dist. of Columbia Dep't. of Employment Servs.*, 743 A.2d 1213 (D.C. 1999). Thus, no other issues were addressed by the ALJ.

In *Walker*, the Director reversed and remanded a Compensation Order in which the claimant's claim for relief was denied, based on the finding that the claimant had been paid benefits for his work injury by the employer under the Maryland workers' compensation law,

which under *Springer* barred the claimant from receiving benefits under the Act in the District of Columbia. The Director concluded that since the workers' compensation process in Maryland has the requirement that all payments of compensation be made pursuant to an order, as it does not contemplate voluntary payments, the absence of an order in *Walker* prevented the payments from being made "under the workers' compensation law" of Maryland. Thus, the Director concluded that the claimant had not received benefits under the workers' compensation law of the state of Maryland and the claim was not barred in the District of Columbia.

As such, in the instant matter, under the guidelines established in *Walker*, the ALJ is required to make further findings of fact and conclusions of law on whether the benefits paid to Petitioner by Respondent were truly, in fact, paid "under Maryland law." The ALJ should determine whether Petitioner filed a claim in Maryland and whether there was an order issued by the Maryland Workers' Compensation Commission ordering the payments to Petitioner. Under *Walker*, if this was not done, Petitioner did not receive "Maryland benefits" and his claim is not barred in the District of Columbia.

Accordingly, the Compensation Order of June 8, 2005 must be remanded to the ALJ for further findings of fact and conclusions of law to determine whether Petitioner's claim is barred under the Act.

CONCLUSION

This matter is remanded to the ALJ for further findings of fact and conclusions of law to determine, under *Walker*, whether Petitioner's benefits were paid under Maryland law and whether his claim is barred in the District of Columbia.

ORDER

The Compensation Order of June 8, 2005 is hereby VACATED and REMANDED for further proceedings consistent with the above discussion.

FOR THE COMPENSATION REVIEW BOARD:

FLOYD LEWIS
Administrative Appeals Judge

September 8, 2005
DATE