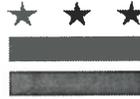


GOVERNMENT OF THE DISTRICT OF COLUMBIA

Department of Employment Services

MURIEL BOWSER
MAYOR



DEBORAH A. CARROLL
DIRECTOR

COMPENSATION REVIEW BOARD

CRB No. 15-194 (1)

**HORACE HENSLEY,
Claimant–Petitioner,**

v.

**CHEECHI & COMPANY and
ATLANTIC MUTUAL INSURANCE COMPANY,
Employer/Insurer-Respondents.**

On Reconsideration of a May 5, 2016 Decision and Order
affirming a November 20, 2015 Order by
Administrative Law Judge Nata K. Brown
AHD No. 92-359K, OWC No. 115568

DEPT. OF EMPLOYMENT
SERVICES
COMPENSATION REVIEW
BOARD
2016 JUN 16 AM 11 19

(Decided June 16, 2016)

Horace Hensley, Pro Se Claimant
Alan M. Carlo for Employer

Before HEATHER C. LESLIE, LINDA F. JORY, and JEFFREY P. RUSSELL, *Administrative Appeals Judges.*

HEATHER C. LESLIE, for the Compensation Review Board:

ORDER DENYING RECONSIDERATION

In an Order dated November 20, 2015, an Administrative Law Judge (ALJ) denied Claimant's Motion to Lift Stay Dated January 17, 2014, a Motion to Rescind AHD No. 92-359K, December 26, 2013 Order Denying Motion to Compel Discovery.

Claimant filed an Application for Review (AFR) seeking reversal of the Order. On May 5, 2016, the Compensation Review Board (CRB) issued a Decision and Order affirming the Order. *Hensley v. Cheechi & Company*, CRB No. 15-194 (May 5, 2016).

On May 26, 2016, Claimant filed a timely Motion for Reconsideration. The CRB issued an Order to Show Cause (OSC) on June 1, 2016, ordering the Employer to file any objections by Monday, June 13, 2016. Employer's response was received by the CRB on June 6, 2016 with Claimant's reply to the Employer's response received on June 8, 2016.

In argument in support of Claimant's request for reconsideration, Claimant argues several points, among which are:

- The Panel has excluded important findings/conclusions (which I will address in order of occurrence) of the cited COs and has excluded pertinent COs all together (which I will address in order of occurrence)." Claimant's argument at 1.
- "It is critical that the Panel take into account the case law that the employer has been barred by the doctrine of res judicata from relitigating the issue of causal relationship since 1993." *Id.*
- "For clarification, 'Claimant subsequently filed for a Formal Hearing requesting a modification of the prior February 3, 2010 in the fall of 2013', the issues presented for resolution at the October 14, 2013 Formal Hearing were: Employer/Carrier/PCIGC failure to comply with compensation Orders/Awards, law of the case, and the ACT; failure to pay for Utilization Review; failure to pay correct and timely indemnity; failure to pay, timely pay, and/or provide ordered medicals; and failure to act in good faith. These issues have never gone to a Formal Hearing on merit." Claimant's argument at 3.
- Claimant is entitled to a supplemental allowance. Claimant's argument at 4.
- Claimant's due process rights have been denied. *Id.*
- Claimant's is entitled to have discovery responses. *Id.*
- "Claimant contends that the December 26, 2013 and November 20, 2015 Orders are indeed arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law." Claimant's argument at 5.

We reiterate our prior decisions related to the February 3, 2010 Compensation Order and the December 26, 2013 Order Denying Motion for Modification – those decisions are final and not subject to revision, rescission or a stay, as Claimant has repeatedly requested. All issues relating to these orders have been addressed by the CRB as well as the District of Columbia Court of Appeals (DCCA) which affirmed the CRB's affirmation of the December 26, 2013 AHD Order. *See Hensley v. Cheechi & Company*, AHD No. 92-359K, OWC No. 115968, (December 26, 2013), *aff'd Hensley v. Cheechi & Company*, CRB No. 14-001 (April 22, 2014)

Specifically,

In this case, we readily affirm the CRB's Decision and Order, because the CRB (and the ALJ) correctly recognized that the principle of *res judicata* bars petitioner from relitigating the issues that were resolved in *Hensley I*.

Hensley v. Cheechi & Company, No. 14-AA-507, Mem. Op. & J. (D.C. April 22, 2015).

All issues presented in *Hensley I* have been addressed by the ALJ, the CRB and the DCCA. Had the ALJ or CRB's decisions in any way been erroneous, excluded important findings of fact or conclusions of law, or in any way violated Claimant's due process rights, the DCCA as the highest Court in the District of Columbia, would have remanded the case for further discussion as the DCCA deemed fit.

Claimant's request to rescind December 26, 2013 Order is again asking this panel to revisit issues that have already been litigated. As we stated in our May 5, 2016 Decision and Order,

Any relitigation of any issues presented to the ALJ, and disposed of in the December 26, 2013 Order under AHD No. 92-359(K) is barred by the principles of *res judicata*. The CRB and DCCA affirmed the order which is now final and not rescindable, as Claimant urges this agency to do.

Hensley v. Cheechi & Company, CRB No. 15-194 (May 5, 2016).

As Employer states in opposition,

If Mr. Hensley wishes to file a new application for a formal hearing, and seeks some further benefits at this time, he is entitled to do so.

Employer's argument, unnumbered at 2-3.

If there are new issues which have arisen since the last Formal Hearing, Claimant may be entitled to a new Formal Hearing. However, we reiterate that any issues presented by the Claimant and addressed in the February 3, 2010 Compensation Order and the December 26, 2013 Order Denying Motion for Modification are barred by the principles of *res judicata*. Those decisions are final and not subject to revision or rescission as Claimant has repeatedly requested.

Claimant's Motion for Reconsideration is **DENIED**.

So ordered.