

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

Office of Hearings and Adjudication
COMPENSATION REVIEW BOARD



(202) 671-1394-Voice
(202) 673-6402-Fax

CRB No. 07-126

HORACE HENSLEY,

Claimant – Petitioner

v.

CHEECHI & COMPANY AND ATLANTIC MUTUAL INSURANCE,

Employer/Carrier – Respondent.

Appeal from an Order of
Administrative Law Judge Melissa Lin Klemens
AHD No. unknown, OWC No. 115568

Horace Hensley, *pro se* Petitioner

Alan M. Carlo, Esquire, for the Respondent

Before: E. COOPER BROWN, *Chief Administrative Appeals Judge*, FLOYD LEWIS and JEFFREY P. RUSSELL, *Administrative Appeals Judges*.

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

DECISION AND ORDER

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 an 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 Order, which was filed on June 12, 2007, the Administrative Law Judge (ALJ) denied the request by Claimant-Petitioner (Petitioner) for a Default Order. Petitioner now appeals that Order.

As grounds for this appeal, Petitioner alleges that the ALJ's decision is arbitrary, capricious, an abuse of discretion and not in accordance with the law.

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. District of Columbia Department of Employment Services*, 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.

Turning to the case under review herein, Petitioner alleges that the ALJ committed error by refusing to grant Petitioner's request for a default and asks that this matter be remanded to the ALJ with instructions to issue an Order finding Employer-Respondent (Respondent) in default. Respondent counters that the ALJ's decision to deny Petitioner's request for relief is in accordance with the law and should not be disturbed.

There has been a long history of adjudication between Petitioner and Respondent, which has included numerous informal conferences, formal hearings and appeals to the Director, CRB and the District of Columbia Court of Appeals for many years. On May 9, 2007, Petitioner filed a letter requesting a declaration a default as a result of the alleged failure by Respondent to comply with the terms of one or more Compensation Orders, which granted benefits to Petitioner. Since Petitioner did not specify what benefits had not been provided, the ALJ issued a Show Cause Order requesting that Petitioner file a computation of benefits allegedly due to each specific Compensation Order.

The ALJ noted that on May 18, 2007, Petitioner filed a lengthy document containing various matters such as sections of the Act; references to informal conference proceedings and Director's decisions; "incomprehensible schedules of dates, dollar amounts, and percentage figures . . . computation methodologies resulting in unfathomable results; and various incomprehensible items." Order at 1. Respondent filed a reply to Petitioner's submission raising several defenses such as asserting that payments have been properly paid, some of the medical expenses Petitioner seeks

have not been accepted as causally related to any compensable event, and that Petitioner's request for relief was generally incomprehensible.

In rejecting Petitioner's request for relief, the ALJ, while specifically recognizing that Petitioner was proceeding *pro se*, noted:

Nonetheless, it is his responsibility, as it is the responsibility of any person or entity seeking relief from an adjudicatory body, to make sure that the decision-maker accurately understands the relief being sought because the undersigned is not expected to be clairvoyant nor omniscient and because this responsibility is not beyond the ability of a reasonable person appearing *pro se*. See, *Hensley v. Cheechi & Company*, CORB No. 04-97, OHA No, 92-359G, OWC No. 115568 (April 26, 2007)

The information presented by Claimant is unintelligible. Consequently, Claimant's request for a Default Order hereby is **DENIED**. If Claimant can serve on Employer and file with AHD a realistic computation of benefits allegedly due and owing to him, he may do so without prejudice.

Order at 2.

In reviewing Petitioner's appeal, this Panel notes that, as mentioned by the ALJ, Petitioner again refers to previous decisions and mentions amounts of money or medical treatment for which he seeks a default, without any clear reference to specific Compensation Orders that awarded benefits or what specific medical bills that were the responsibility of Respondent were not paid. This Panel also notes that Petitioner again mentions an amount of money which he believes is due to him, which Respondent doubts "if there is even a term in the English language for that figure . . . [which] appears to grossly exceed the gross domestic product of the United States of America . . ."

After carefully reviewing the record in this matter, this Panel must reject Petitioner's arguments. Further, we can find no reason to disturb the ALJ's denial of Petitioner's request for a Default Order, as we concur with the ALJ that the information presented by Petitioner was unintelligible. In dismissing the instant appeal, it should be noted that as the ALJ stressed, if Petitioner is able to file a realistic computation of benefits that he feels are owed to him, he could do so before AHD, without prejudice.

Accordingly, the Order denying Petitioner's request for a Default Order should not be disturbed, as it is supported by substantial evidence and is in accordance with the law.

CONCLUSION

The Order of June 12, 2007 is supported by substantial evidence and is in accordance with the law.

ORDER

The Order of June 12, 2007 is hereby AFFIRMED.

FOR THE COMPENSATION REVIEW BOARD:

FLOYD LEWIS
Administrative Appeals Judge

September 6, 2007
DATE