

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. 05-254

NANCY JONES,

Claimant–Respondent,

v.

WASHINGTON CENTER FOR AGING SERVICES AND ROYAL AND SUNALLIANCE INSURANCE,

Employer/Carrier- Petitioner.

Appeal from a Final Order of
The Office of Workers' Compensation, Brenda Hailes, Claims Examiner, Mohammed Sheik,
Supervisor
OWC No. 542304

Kathryn S. McAleer, Esquire, for the Petitioner

John Kelly, Esquire, for the Respondent

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

JEFFREY P. RUSSELL, *Administrative Appeals Judge*, for the Compensation 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

¹Pursuant 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 District of Columbia Workers' Compensation Administrative Reform and Anti-Fraud Amendment Act of 2004, *codified at* D.C. Official Code § 32-1521.01. In accordance with the Director's Directive, the CRB replaces the Office of the Director in providing administrative appellate review and disposition of workers' and disability compensation claims arising under the District of Columbia Workers' Compensation Act of 1979, as amended, D.C. Code Ann. §§ 32-1501 to 32-1545 (2005), and the District of Columbia Government Comprehensive Merit Personnel Act of 1978, as amended, D.C. Code Ann. §§ 1-623.1 to 1-643.7 (2005), including

BACKGROUND

This unopposed appeal follows the issuance of a Final Order from the Office of Workers' Compensation (OWC) in the District of Columbia Department of Employment Services (DOES). In that Final Order, which was issued by the Claims Examiner on July 8, 2005 and filed on July 11, 2005, the date upon which the Supervisor of the Claims Processing Unit of OWC approved a Final Order of the Claims Examiner, in which Petitioner was ordered to provide certain vocational rehabilitation services to respondent, and to pay in conjunction therewith temporary total disability benefits for a period of time. This order followed the appearance and attendance by the parties at an informal conference. At the time of that informal conference, the parties agreed to the voluntary resolution of Respondent's request for provision of vocational rehabilitation services and temporary total disability benefits; that agreement was premised upon Petitioner's continuing to maintain the right to terminate such services and benefits, and to provide same on a voluntary basis without prejudice to its right to contest its obligation for said benefits at any time in the future. Respondent, represented by counsel, agreed to such a voluntary resolution of the dispute concerning her entitlement to the claimed benefits.

Following this conference, the Claims Examiner issued, and the Supervisor approved, the Final Order ordering the provision of the benefits, the provision of which Petitioner had agreed to provide voluntarily. Said order was issued without the Claims Examiner having issued a recommendation of disposition of any matters in dispute, there being no such disputed issues as a result of the agreement reached at the informal conference.

Petitioner has appealed, seeking the vacating of the Final Order, in that it does not comport with the agreement of the parties. In support of that appeal, Petitioner has filed an executed "Joint Consent to Rescind Final Order Dated July 8, 2005", accompanied by an executed "Stipulation of the Parties" in which the parties agreed, *inter alia*, that "The Parties agree that the Final Order issued in this case July 8, 2005 is to be rescinded and annulled as it did not embody an agreement of the parties".

From these undisputed facts, it appears that the Final Order under review was issued in error, and does not represent the agreement of the parties, who appear to have, in the spirit of the contemplated reconciliatory and voluntary nature of the informal process, reached accommodation concerning resolution of the issues in dispute as of the date of the informal conference. We view the entry of the Final Order under these circumstances to be arbitrary and capricious, or the result of plain error, and accordingly, the Final Order is hereby vacated.

CONCLUSION

The Final Order of July 11, 2005, issued by the Claims Examiner on July 8, 2005, is not in accordance with the law.

responsibility for administrative appeals filed prior to October 1, 2004, the effective date of the District of Columbia Workers' Compensation Administrative Reform and Anti-Fraud Amendment Act of 2004.

ORDER

The Final Order of July 11, 2005 is hereby VACATED.

FOR THE COMPENSATION REVIEW BOARD:

JEFFREY P. RUSSELL
Administrative Appeals Judge

September 14, 2005
DATE