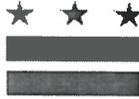


**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

Department of Employment Services

MURIEL BOWSER  
MAYOR



DEBORAH A. CARROLL  
DIRECTOR

COMPENSATION REVIEW BOARD

CRB No. 15-037(1)

KEITH CUNNINGHAM,  
Claimant-Respondent,

v.

DISTRICT OF COLUMBIA OFFICE OF THE CHIEF FINANCIAL OFFICER,  
Employer-Petitioner.

DEPT. OF EMPLOYMENT  
SERVICES  
COMPENSATION REVIEW  
BOARD  
2015 JUL 8 AM 10 11

On Motion for Reconsideration of a Decision and Order  
issued June 18, 2015

AHD No. 09-056C, OWC No. 647286

(Decided July 8, 2015)

Andrea G. Comentale for the Employer  
Harold L. Levi for the Claimant

Before MELISSA LIN JONES, LINDA F. JORY, and HEATHER C. LESLIE, *Administrative Appeals Judges*.

MELISSA LIN JONES for the Compensation Review Board.

**ORDER DENYING RECONSIDERATION**

FACTS OF RECORD AND PROCEDURAL HISTORY

On March 28, 2012 while working as an information technology specialist for the District of Columbia Office of the Chief Financial Officer, Mr. Keith Cunningham bent over to insert a disk into a server. He felt a sharp pain in his abdomen, and when trying to stand, his left knee gave way causing him to fall to the floor. In an email sent the next day, Mr. Cunningham notified his supervisor of a groin injury.

Mr. Cunningham already had an appointment scheduled with the Veterans Medical Center on April 2, 2012, and that appointment was the first time he sought treatment for his injury. In a Physician's Report of Employee's Injury and Disability dated May 14, 2012, Mr. Cunningham was diagnosed with severe osteoarthritis and pain related to his fall at work "which caused [the] spasms." Claimant's Exhibit H.

Once again, [§1-623.19(b)] does not require notice to the supervisor of the full extent of an injury which is subject to a claim.

Opposition, p. 7.

In his Motion Mr. Cunningham argues

More importantly, the absolute specificity and certainty which the DO required is not in fact a reason for the notice provision in the first place.

Motion, p. 7. In the Opposition Mr. Cunningham argued

nowhere does the provision which Petitioner quotes provide that an employer notice is defective or incomplete if it fails to recite each and every body part injured in a work-related accident covered by the Code as that is not the function of the employer notice.

Opposition, p. 7.

In his Motion Mr. Cunningham argues

The notice provision in Section 1-623.19 is not, and never has been, intended to require a claimant to file a full and complete claim for workers' compensation benefits with the supervisor. The notice requirement is instead intended to inform the employer of an alleged work-related injury involving one of its employees so that the employer can initiate the applicable PSWCP claims-processing requirements for the benefit of the claimant [footnote omitted] and so that employer can investigate the circumstances of an injurious event and take any corrective action that is appropriate to protect its employees, the claimant and others included.

Motion, pp. 7-8. In the Opposition Mr. Cunningham argued

The notice-to-employer provision is not intended to require a claimant to file a full and complete claim for workers' compensation benefits with the supervisor. . . . Rather, the notice requirement is intended to inform the employer of an alleged work-related injury involving one of its employees so that the employer can take corrective action if necessary to protect its employees and so that the employer also can initiate the applicable PSWCP claims-processing requirements in a timely fashion for the benefit of the claimant. [Footnote omitted.]

Opposition, p. 6.

In his Motion Mr. Cunningham argues

Furthermore, supervisors are not entitled to all of their employees' confidential information which the DO would otherwise seem to require. Mandating that an initial notice to the supervisor provide full medical information

In accordance with Section 1-623.22(a), a claim must be filed with PSWCP within two years following the injury or death. Section 1-623.22 further provides that claims may not be allowed unless the employer notice provision in Section 1-623.19 was initially met. Petitioner does not recite or quote Section 1-623.22(a). Rather, it quotes Section 1-623.22(b) which only deals with claims for latent disabilities and provides that “time for giving notice of the latent disability begins to run when the employee is aware, or by the exercise of reasonable diligence, should have been aware, that his or her condition is causally related to his or her employment...” As only a fair reading of the section shows, the entirety of Section 1-623.22 regards the PSWCP claim procedure. Notwithstanding Petitioner’s assertion Section 1-623.22(b) does not require a new notice to an employer and furthermore it does not contain a thirty-day requirement.

Cunningham satisfied both the Employer notice requirement and the PSWCP claim filing requirement. His claim was not time barred by either.

Opposition, p. 8.

In his Motion Mr. Cunningham argues

In this instance, the NOD concluded that Cunningham’s injury did not occur in the course and scope of his employment making him ineligible for workers’ compensation benefits, and it rendered its determination as “to all injury claims associated with this claim number (EE-2).” That universal reference can only be construed to include the aggravation injury to Cunningham’s back of which PSWCP was keenly aware.

Motion, p. 11. In the Opposition Mr. Cunningham argued

Furthermore, the fact of the matter is that in its NOD (EE-2) issued on June 25, 2012, Petitioner expressly denied Cunningham’s request for benefits as to “all injury claims associated with this claim number...”, his back claim and his abdomen/groin claim included.

Opposition, p. 9.

Mr. Cunningham raises the same arguments on reconsideration as he raised in opposition to the District of Columbia Office of Chief Financial Officer’s appeal. Because Mr. Cunningham raises no suitable basis for reconsideration, his Motion is DENIED.

*So ordered.*