

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Department of Employment Services

MURIEL BOWSER
MAYOR



DEBORAH A. CARROLL
DIRECTOR

COMPENSATION REVIEW BOARD

CRB No. 14-085(A)

LARRY LEWIS,
Claimant,

v.

DISTRICT OF COLUMBIA PUBLIC SCHOOLS,
Self-Insured Employer.

DEPT. OF EMPLOYMENT
SERVICES
COMPENSATION REVIEW
BOARD
2015 NOV 23 AM 10 59

In re: An October 9, 2015 Application for Attorney's Fees
AHD No. PBL 12-044, DCP No. 761020-0001-1999-0039

(Decided, November 23, 2015)

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

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

JEFFREY P. RUSSELL for the Compensation Review Board.

ORDER AWARDING AN ATTORNEY'S FEE

On October 9, 2015, Claimant's counsel, Harold L. Levi, filed a fee application requesting the Compensation Review Board (CRB) assess against Employer an attorney's fee for 12.75 hours, billed at \$240.00 per hour, asserted to have been performed by Claimant's counsel in this appeal before the CRB. The fee requested consisted of \$3,060.00, based on \$60,075.18 actual indemnity benefits asserted to have been paid to Claimant as of the date of the fee application.

On October 14, 2015, the CRB issued an "Order to Show Cause Re: October 9, 2015 Fee Application", in which Employer was directed to show cause why an Order for fees in the amount of \$3,060.00 should not be approved, awarded and assessed as requested by Claimant's counsel, said response to be filed on or before Friday, October 23, 2015.

On October 23, 2015, Employer filed “Employer’s Response to Order to Show Cause Re: October 9, 2015 Fee Petition” (Employer’s Response). In that response, Employer disputes that Claimant was awarded benefits amounting to \$60,075.18, asserting that:

The only proof of benefits secured submitted by Claimant are copies of two checks issued to Claimant on August 28, 2014, one in the amount of thirty-one thousand, nine hundred, nineteen dollars and ninety-eight cents (\$31,919.98) and one for two thousand, two hundred, fifty-three dollars and ninety cents (\$2,253.90). Employer concedes that Claimant received a lump-sum payment of benefits in the amount \$31,919.98 and continues to receive ongoing benefits. However, the \$2,253.90 payment was a penalty payment and the amount cannot be considered as “benefits” secured through the successful prosecution of Claimant’s claim. *See* Attachment 1 hereto; *see also* D.C. Code § 1-623.27(b)(2). Nevertheless, since the amount of attorney’s fees requested of \$3,060.00 does not exceed 20% of \$31,919.98, Employer’s objection is made for purposes of clarity of the record only.

Employer’s Response, pp. 1 – 2.

There being no objection raised to the assessment requested, we need not address Employer’s contentions concerning awards of attorney’s fees and penalties.

Accordingly, the fee application is GRANTED, and a fee in the total amount of \$3,060.00 is assessed against Employer for work performed before the CRB, subject to the proviso that the total fee for which Employer is liable for all services rendered before AHD and CRB shall not exceed the 20% limitation set forth in D.C. Code § 1-623.24(b)(2).

So ordered.