

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Department of Employment Services

MURIEL BOWSER
MAYOR



DEBORAH A. CARROLL
DIRECTOR

COMPENSATION REVIEW BOARD

CRB No. 15-161(A)

MICHAEL HAIRE,
Claimant,

v.

FORT MYER CONSTRUCTION CORP.,
and GALLAGHER BASSETT SERVICES,
Employer/Third-Party Administrator.

AHD No. 15-385, OWC No. 729755

DEPT. OF EMPLOYMENT
SERVICES
COMPENSATION REVIEW
BOARD
2016 APR 5 PM 1:44

(Issued April 5, 2016)

Allen J. Lowe for Claimant
Gerald J. Emig 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 DISMISSING AN APPLICATION FOR AN ATTORNEY'S FEE WITHOUT PREJUDICE

On March 3, 2016, the Compensation Review Board issued a Decision and Order affirming a Compensation Order issued by the Department of Employment Services, Office of Hearings and Adjudication, Administrative Hearings Division on August 31, 2015. That Compensation Order granted Claimant temporary total disability benefits from October 9, 2014 to the present and continuing.

This matter is now before the Compensation Review Board ("CRB") on Claimant's counsel's April 4, 2016 Fee Application requesting the Compensation Review Board (CRB) assess against the Employer an attorney's fee of \$1,356.00, for 5.65 hours of work, asserted to have been performed by Counsel before the CRB in the appeal in this matter. The Fee Application requested an attorney fee award be paid to Claimant's counsel at the hourly rate of \$240.00, and stated that "due to the decision and order, the Claimant has received over \$40,000.00 in past due benefits and will continue to receive in excess of \$38,000.00 per year in ongoing benefits based on the order..."

On April 4, 2016, the CRB also received from Employer a copy of a Petition for Review of the underlying CRB Decision that it indicates has been filed with the District of Columbia Court of Appeals (DCCA).

Pursuant to 7 DCMR § 269.2,

Notwithstanding the time limits proscribed by 7 DCMR section 109 or 7 DCMR section 224, an application to the Board for the award of an attorney's fee (including, where appropriate, request for reimbursement of costs) for legal work performed before the Board on behalf of a successful claimant shall be filed with the Board within ninety (90) calendar days after the claim for benefits becomes final and all appeals have been exhausted.

Because the Decision and Order issued by the CRB on March 3, 2016 was appealed to and is now pending before the DCCA, it is not final until all appeals have been exhausted.

Accordingly, the April 4, 2016 Fee Application is dismissed without prejudice, subject to being re-filed within 30 days of a final non-appealable order being issued in this case.

So ordered.