

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 No. 07-112

RODNEY CARSON,

Claimant–Petitioner,

v.

POTOMAC ELECTRIC POWER COMPANY (PEPCO),

Self-Insured Employer–Respondent.

Appeal from a Compensation Order of
Administrative Law Judge Henry W. McCoy
AHD No. 05-429, OWC No. 606465

E. Scott Frison, Jr., Esquire, for the Petitioner

William T. Kennard, Esquire, for the Respondent

Before JEFFREY P. RUSSELL, SHARMAN J. MONROE and LINDA F. JORY, *Administrative Appeals Judges*.

JEFFREY P. RUSSELL, *Administrative Appeals Judge*, for the Compensation Review Panel:¹

ORDER DISMISSING APPLICATION FOR REVIEW

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).²

¹ The chairing of this panel was reassigned to the undersigned on November 21, 2007.

² 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 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

BACKGROUND

This appeal follows the issuance of a Compensation 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 Compensation Order, which was filed on May 2, 2007, the Administrative Law Judge (ALJ) denied Petitioner's claim for temporary total disability benefits sought in connection with an alleged psychological injury claimed to have been compensable under the Act, finding that the evidence did not support such an award under the special tests for compensability of psychological injury claims in this jurisdiction. Petitioner filed an Application for Review (AFR) on June 7, 2007 seeking review of that Compensation Order. Because of the disposition of this appeal, further discussion of the matters raised during the pendency of this appeal need not be undertaken.

Because the Application for Review is untimely, we dismiss this appeal.

DISCUSSION

D.C. Code § 32-1522 governs the time within which an aggrieved party may seek review of a Compensation Order issued following a formal hearing under the Act. Subsection (2) of that provision reads in pertinent part:

(2A) (A) A party aggrieved by a compensation order may file an application for review with the Board within 30 days of the issuance of the compensation order. A party adverse to the review may file an opposition answer within 15 days of the filing of an application for review.

Although the Certificate of Service on the Application for Review indicates that it was mailed to counsel for Respondent on June 2, 2007, the official agency date stamp on that document in the administrative file reveals that it was received by the CRB no earlier than June 7, 2007, which date is also the date that the CRB clerk listed as the date of filing of the Application for Review in its notice of filing of the Application for Review. The Application for Review is therefore untimely.

CONCLUSION

The Compensation Order was issued May 2, 2007, thereby requiring that any aggrieved party file an Application for Review within 30 days thereof, or in this case on or before June 1, 2007. The Application for Review was not filed until June 7, 2007, and is therefore untimely.³

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 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.

³ We note that even had the Application for Review been filed on the date of mailing given in the Certificate of Service, it was still untimely.

ORDER

The appeal of the Compensation Order of May 2, 2007, and all matters raised with the CRB subsequent to the filing thereof, are hereby dismissed.

FOR THE COMPENSATION REVIEW BOARD:

JEFFREY P. RUSSELL
Administrative Appeals Judge

November 28, 2007
DATE