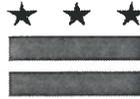


GOVERNMENT OF THE DISTRICT OF COLUMBIA

Department of Employment Services

MURIEL BOWSER
MAYOR



DEBORAH A. CARROLL
DIRECTOR

COMPENSATION REVIEW BOARD

CRB No. 15-034 (R)

ROSALIND M. FOWLER,
Claimant,

v.

DISTRICT OF COLUMBIA DEPARTMENT OF MOTOR VEHICLES,
Employer.

DEPT. OF EMPLOYMENT
SERVICES
COMPENSATION REVIEW
BOARD
2016 JUN 16 PM 1 27

On Remand from an Order by the District of Columbia Court of Appeals
DCCA No. 15-AA-896 (June 6, 2016)

Appeal from a July 7, 2015 Compensation Review Board Decision and Order
that reversed and vacated a January 30, 2015 Compensation Order by
Administrative Law Judge Fred D. Carney, Jr.
AHD No. PBL 12-029A, DCP No. 30111224763-001

(Issued June 16, 2016)

Kirk D. Williams for Claimant
Andrea G. Comentale for Employer

LAWRENCE D. TARR, *Chief Administrative Appeals Judge*, for the Compensation Review Board

ORDER ON REMAND

On June 6, 2016, the District of Columbia Court of Appeals (“DCCA”) vacated and remanded the Compensation Review Board’s (“CRB”) July 7, 2015 Decision and Order. The DCCA’s Order remanded this case to the CRB “for further proceedings consistent with the statements made in Respondent’s Motion to Remand.”

Claimant, Rosalind M. Fowler, sustained a work-related injury on February 16, 2010, when she slipped while at work. Employer, through its Public Sector Workers’ Compensation Program (“PSWCP”) accepted a claim for a right elbow injury on March 17, 2010. After PSWCP accepted the right elbow claim, Claimant received treatment for her right hip and back. Believing that these injuries were related to her February 16, 2010 accident, Claimant notified PSWCP which treated the notification as a claim and assigned a different claim number than the one given to the right elbow claim.

On January 17, 2012, PSWCP notified Claimant by letter that it had accepted a right elbow claim. On February 16, 2012 Claimant requested reconsideration because PSWCP had not accepted her right hip and back claim. PSWCP denied the reconsideration request asserting it was not timely made.

Claimant filed for a formal hearing before an Administrative Law Judge (“ALJ”) that occurred on February 5, 2013. During the prehearing discussions, counsel for both parties agreed that the ALJ did not have jurisdiction to hear the claim relating to Claimant’s right hip or back because PSWCP had not issued a decision regarding that claim.

On January 30, 2015, the ALJ issued a Compensation Order which described the Claimant’s Claim for Relief as “Claimant seeks clarification of this administrative court’s jurisdiction” and stated the issues for his determination were “Whether Employer properly denied Claimant’s request for reconsideration as untimely?” and “Whether Claimant has proven that the back and hip condition are medically casually related?”

The ALJ, relying on two regulations that were not in effect on the day Claimant requested reconsideration, 7 DCMR § 128 and 7 DCMR § 128, held that Claimant’s request for reconsideration was timely and also concluded that Claimant’s back and right hip injuries were causally related to the February 16, 2010 accident at work. Employer appealed to the CRB.

In its July 7, 2015 Decision and Order, the CRB, noting that the claim for relief sought an advisory opinion regarding jurisdiction, reversed and vacated the CO, because an ALJ is not granted authority to issue advisory opinions. Claimant appealed to the DCCA.

While the appeal was pending before the DCCA, the Department of Employment Services (DOES) - which is the respondent in appeals from the CRB to the DCCA - filed a Motion To Remand. In the motion, the DOES stated:

It is clear that Ms. Fowler filed her request [for reconsideration] within the 30 days required by 7 DCMR § 3134.5 (2011), so this Court should simply direct the CRB on remand to reinstate the ALJ’s conclusion in that regard. This will then cause (PSWCP) to reconsider Ms. Fowler’s claim on the merits. Should (PSWCP) deny her claim, Ms. Fowler can then re-engage the review process under the current regulations.

Therefore, consistent with the DCCA’s June 6, 2016 Order, the CRB’s July 7, 2016 Decision and Order is hereby amended so that the ALJ’s determination that Claimant timely filed her request for reconsideration is **AFFIRMED**.

So ordered.