

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. 07-139

ROSS BUCHOLZ,

Claimant-Respondent,

v.

OFFICE OF THE ATTORNEY GENERAL,

Employer-Petitioner.

Appeal from an Order of  
Administrative Law Judge Reva M. Brown  
AHD No. PBL 04-027A, PBL/DCP Nos. 761037-0001-2002-0001

Thelma Chichester Brown, Esquire, for the Petitioner

Kirk D. Williams, Esquire, for the Respondent

Before JEFFREY P. RUSSELL, and FLOYD LEWIS, *Administrative Appeals Judges*, and E. COOPER BROWN, *Chief Administrative Appeals Judge*.

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

**DECISION AND ORDER**

JURISDICTION

Jurisdiction is conferred upon the Compensation Review Board pursuant to D.C. Official Code § 1-623.28, § 32-1521.01, 7 DCMR § 118, and DOES Director's Directive Administrative Policy Issuance No. 05-01 (Feb. 5, 2005).<sup>1</sup>

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<sup>1</sup> 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 D.C. Workers' Compensation Administrative Reform and Anti-Fraud Amendment Act of 2004, 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 D.C. Workers' Compensation Act of 1979, as amended, D.C. Official Code § 32-1501 *et seq.*, and the D.C. Government Comprehensive Merit Personnel Act of 1978, as amended, D.C. Official Code § 1-623.1 *et seq.*, including responsibility for administrative appeals filed prior to October

## BACKGROUND

A Compensation Order was issued by AHD on March 16, 2007, in which Respondent herein (claimant therein) was awarded benefits sought in a prior formal hearing. That Compensation Order was appealed by Petitioner herein (employer therein) on April 13, 2007, which appeal was accompanied by a Motion To Stay the Compensation Order.

While the appeal was pending, on motion of Respondent herein, AHD issued an Order of Default; Petitioner herein appealed that Order of Default on May 29, 2007.

On June 6, 2007, Petitioner herein also filed, with AHD, a Motion for Reconsideration of the Order of Default.

The next day, June 7, 2007, the CRB affirmed the Compensation Order of March 16, 2007.

On June 19, 2007, the ALJ in AHD denied the June 5, 2007 Motion for Reconsideration and the order denying that motion ordered that “the government is, once again, ORDERED to tender to claimant the payments due under the Compensation Order of March 16, 2007, along with payment of the penalty due under D. C. Code § 1-623.24 (g).”

On July 27, 2007, the CRB affirmed the Order of Default of May 23, 2007.

Petitioner appeals that June 19, 2007 order. As grounds for the appeal of that order, Petitioner asserts that given the pendency of the appeal of the Order of Default, filed on May 29, 2007, and the fact that the Motion to Stay filed with the appeal of the Compensation Order have not been ruled upon, the AHD was without jurisdiction to issue the June 19, 2007 order.

Respondent asserts that the AHD had authority to issue the June 19, 2007 order as an aid in “enforcement” of the Compensation Order.

Because the CRB has now ruled upon the appeal in connection with the Order of Default, the issues in this appeal have now been resolved, rendering the order under appeal herein moot, and it is accordingly vacated.

## ANALYSIS

As an initial matter, the scope of review by the Compensation Review Board (CRB) and this Compensation Review Panel, as established by the Act and as contained in the governing regulations, is limited to making a determination as to whether the factual findings of the Compensation Order are based upon substantial evidence in the record, and whether the legal conclusions drawn from those facts are in accordance with applicable law. *See*, D.C. Comprehensive Merit Personnel Act of 1978, as amended, D.C. Official Code § 1-623.01, *et seq.*, at

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1, 2004, the effective date of the D.C. Workers' Compensation Administrative Reform and Anti-Fraud Amendment Act of 2004.

§ 1-623.28 (a). "Substantial evidence," as defined by the District of Columbia Court of Appeals, is such evidence as a reasonable person might accept to support a particular conclusion. *Marriott Int'l. v. District of Columbia Department of Employment Services*, 834 A.2d 882 (D.C. App. 2003). Consistent with this standard of review, the CRB and this Review Panel are constrained to uphold a Compensation Order that is supported by substantial evidence, even if there is also contained within the record under review substantial evidence to support a contrary conclusion, and even where the reviewing authority might have reached a contrary conclusion. *Marriott*, 834 A.2d at 885.

The factual and procedural and background of this case as are set forth above. The issues raised in the appeal of the order under review herein have been resolved by the affirmance of the Order of Default.

#### CONCLUSION

The issues raised in connection with the appeal of the Order of June 19, 2007 are moot.

**ORDER**

The Order of June 19, 2007 is vacated as being moot, and this appeal is dismissed.

FOR THE COMPENSATION REVIEW BOARD:



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JEFFREY P. RUSSELL  
Administrative Appeals Judge

August 30, 2007

DATE