DISTRICT OF COLUMBIA, DEPARTMENT OF EMPLOYMENT SERVICES,
COMPENSATION REVIEW BOARD

SAVANNAH NEIGHBORS,
Claimant - Petitioner

v.

D.C. DEPARTMENT OF BANKING & FINANCIAL INSTITUTIONS,
Employer -- Respondent.

CRB No. 03-04, OHA No. PBL 97-038(A), DCP No. LT3-BFI00901

July 19, 2006

Savannah Neighbors, pro se Petitioner
Ross Buchholz, Esquire, for the Respondent

Before E. COOPER BROWN, *Chief Administrative Appeals Judge,* FLOYD LEWIS and SHARMAN J. MONROE, *Administrative Appeals Judges.*

FLOYD LEWIS, *Administrative Appeals Judge,* on behalf of the Review Panel

OPINION: DECISION AND ORDER

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). <n1>

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<n1> 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 D.C. Workers' Compensation Administrative Reform and Anti-Fraud Amendment Act of 2004, sec. 1102 (Oct. 1, 1994), *codified at* D.C. Code Ann. §§ 32-1521.01, 32-1522 (2005). In accordance with the Director's Policy Issuance, 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. Code Ann. §§ 32-1501 to 32-1545 (2005) and the D.C. 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 D.C. Workers' Compensation Administrative Reform and Anti-Fraud Amendment Act of 2004.

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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 March 3, 2004, the Administrative Law Judge (ALJ) denied the claim made by Claimant-Petitioner (Petitioner) for continuing temporary total disability (TTD) benefits, concluding that the reduction of Petitioner's TTD benefits was consistent with the medical evidence of record. Petitioner now seeks review of that Compensation Order.

ANALYSIS

As an initial matter, the scope of review by the Compensation Review Board (CRB) and this 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. D.C. Official Code § 1-623.28(a). "Substantial evidence," as defined by the District of Columbia Court of Appeals, is such evidence as a reasonable [*3] person might accept to support a particular conclusion. *Marriott Int'l. v. Dist of Columbia Dep't. of Employment Servs. 834 A.2d 882 (D.C. 2003).* Consistent with this scope 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.*

In the instant matter, Petitioner sought restoration of her TTD benefits retroactive to November 13, 2002, the date of the Final Order of Denial. The ALJ was faced with the issue of whether Petitioner had any remaining disability arising both out of and in the course of the October 18, 1988 work related injury, and if so, the nature and extent thereof.

The ALJ concluded that Petitioner was capable of returning to duty for Respondent, as Respondent had adduced sufficient medical evidence to demonstrate a change in Petitioner's medical condition, relying on the opinion of Dr. Mohammad H. Zamani over [*4] the opinion of Petitioner's physician, Dr. Rida Azer. In relying on the opinion of Dr. Zamani, the ALJ clearly detailed the reasons for rejecting the treating physician preference in favor of the conclusions of Respondent's physician, Dr. Zamani. *Canlas v. Dist. of Columbia Dep't. of Employment Servs., 723 A.2d 1210, 1211-12 (D.C. 1995).*

As to the merits of the Petitioner's appeal, the record was thoroughly reviewed and the Panel finds that the ALJ's factual findings are supported by substantial evidence on the record as a whole, and are, therefore, conclusive. *Marriott supra* at 882 (D.C. 2003); D.C. Government Comprehensive Merit Personnel Act of 1978, as amended, D.C. Code Ann. §§ 1.623.1 to 1.643.7 (2005), at § 1.623.28(a). The ALJ's conclusions of law are in accordance with the law as well. In sum, the record fully supports the ALJ's thorough, well reasoned decision, and the Panel, therefore, adopts the reasoning and legal analysis expressed by the ALJ in that decision in affirming the Compensation Order in all respects.

CONCLUSION

The Final Compensation Order of March 3, 2004 is supported by substantial evidence in the record and is in [*5] accordance with the law.

ORDER

The Final Compensation Order of March 3, 2004 is hereby AFFIRMED.

FOR THE COMPENSATION REVIEW BOARD:

FLOYD LEWIS
Administrative Appeals Judge

July 19, 2006