

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Employment Services
Labor Standards Bureau

Office of Hearings and Adjudication
COMPENSATION REVIEW BOARD



(202) 671-1394-Voice
(202) 673-6402-Fax

CRB No. 06-29

SYLVIA SNIPES,

Claimant–Respondent,

v.

INDIVIDUAL DEVELOPMENT, INC., AND THE HARTFORD INSURANCE COMPANY,

Employer/Carrier–Petitioner.

Appeal from a Compensation Order of
Administrative Law Judge Henry W. McCoy
AHD No. 05-387, OWC No. 594186

David Merkin, Esquire, for the Petitioner

Matthew Peffer, Esquire, for the Respondent

Before JEFFREY P. RUSSELL, LINDA F. JORY, and FLOYD LEWIS, *Administrative Appeals Judges*.

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 §§ 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).¹

¹ 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 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.

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 followed a formal hearing conducted on October 14, 2005, and was filed on February 8, 2006, the Administrative Law Judge (ALJ) granted the relief and requested by respondent, finding that Respondent had sustained an accidental injury while employed by Petitioner on March 5, 2003, had given timely notice of that injury to Petitioner, and was temporarily totally disabled from her employment as a result of that injury from that date through the date of the formal hearing and thereafter. Petitioner now seeks review of that Compensation Order.

ANALYSIS

We note that the complaints of Petitioner in this appeal appear almost, if not entirely, to be premised upon Petitioner's views as to the proper weight that should have been accorded the evidence, including the credibility of the Respondent, which Petitioner views as being singularly lacking. Such determinations are within the province of the ALJ, and will not be disturbed on review by the CRB. Regarding Petitioner's concerns that the opinion of the original treating physician has somehow been improperly ignored by the ALJ, we note that Petitioner has not pointed us to any evidence that constitutes a direct statement by that physician that, as between these two claimed incidents, the only incident related to the claimed disability is the prior injury of March 9, 2002, and that the claimed injury of March 5, 2003 did not contribute to that disability. Further, Petitioner has pointed us to no independent medical examination (IME) evidence of that variety. At best, Dr. Emich's notes and reports permit an inference that the claimed disability could have been caused solely by the prior injury; they do not constitute a clear expression of that opinion. Lastly, we note that, even if the ALJ erred in the statement that "Employer has not presented substantial evidence to sever the presumption of compensability" (Compensation Order, "Discussion", page 6), he immediately proceeded to outline the competing evidence, and then to weigh it, finding on balance that "the overwhelming medical evidence records the injury on the date testified by Claimant and draws a medical causal relationship between her current pain and that work place injury", which exercise is precisely what would have been required had he stated that the presumption had been overcome initially. Thus, any error, if it occurred, was rendered harmless.

The record has been reviewed and we find that the ALJ's factual findings are supported by substantial evidence on the record as a whole, and are therefore conclusive. *Marriott Int'l. v. Dist. of Columbia Dep't. of Employment Servs.*, 834 A.2d 882 (D.C. 2003); D.C. Workers' Compensation Act of 1979, as amended, D.C. Code Ann. §32-1501 to 32-1545 (2005), at §32-1521.01(d)(2)(A). We defer to and accept the ALJ's credibility determinations as well. The record fully supports the ALJ's thorough, well reasoned decision, and we therefore adopt the reasoning and legal analysis expressed by the ALJ in that decision in affirming the Compensation Order in all respects.

ORDER

The Compensation Order of February 8, 2006 is hereby AFFIRMED.

FOR THE COMPENSATION REVIEW BOARD:

JEFFREY. P. RUSSELL
Administrative Appeals Judge

April 13, 2006
DATE