

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 (Dir.Dkt.) No. 05-13

ERIC STATEN,

Claimant–Petitioner

v.

SUPER CONCRETE, INC.,

Self-Insured Employer–Respondent

Appeal from a Compensation Order of
Administrative Law Judge Jeffrey P. Russell
OHA/AHD No. 04-348, OWC No. 592765

Benjamin T. Boscolo, Esq., for Petitioner

John F. Ward, Esq., for Respondent

Before E. COOPER BROWN, *Chief Administrative Appeals Judge*, LINDA JORY, *Administrative Appeals Judge* and SHARMAN J. MONROE, *Administrative Appeals Judge*.

E. COOPER BROWN, *Chief 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 (1994), 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

This appeal follows the issuance of a Compensation Order by an Administrative Law Judge (ALJ) in the Administrative Hearings Division (AHD), formerly the Office of Hearings and Adjudication (OHA), District of Columbia Department of Employment Services. The Compensation Order was based upon the stipulated submission of briefs, documentary evidence and proffer of evidence by both parties in lieu of testimony, and the oral argument of counsel for the respective parties held September 14, 2004. Pursuant to a Compensation Order issued October 22, 2004, the ALJ denied Petitioner's claim for temporary total disability (TTD) from January 19, 2004 through August 10, 2004, holding that Claimant-Petitioner (Petitioner) was not entitled to TTD where Employer-Respondent (Respondent) had modified duty positions available to the Petitioner within his restrictions and capacities, which Petitioner would have accepted but for his having been previously terminated from his employment for cause. Petitioner now seeks review of the Compensation Order, asserting that the ALJ's decision is not in accordance with applicable statutory and case law, and further that findings of fact set forth in the Compensation Order are not supported by substantial evidence of record. This case is now before the Compensation Review Board on Petitioner's appeal, filed November 17, 2004.

DISCUSSION

We have reviewed the record and 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. Government Comprehensive Merit Personnel Act of 1978, as amended, D.C. Official Code § 1-623.28(a). See also, D.C. Office Code § 32-1521.01(d)(2)(A). Furthermore, the record fully supports the ALJ's well-reasoned decision. Accordingly, we adopt the ALJ's reasoning and legal analysis, and affirm the Compensation Order in all respects.

ORDER

The Compensation Order of October 22, 2004 is hereby AFFIRMED.

FOR THE COMPENSATION REVIEW BOARD:

E. COOPER BROWN
Chief Administrative Appeals Judge

September 30, 2005
DATE

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.

