

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

**Department of Employment Services**

MURIEL BOWSER  
MAYOR



DEBORAH A. CARROLL  
DIRECTOR

**COMPENSATION REVIEW BOARD**

**CRB No. 15-010**

**SYLVIA BROWN-CARSON,  
Claimant-Petitioner,**

**v.**

**DISTRICT OF COLUMBIA OFFICE OF UNIFIED COMMUNICATIONS,  
Employer-Respondent.**

Appeal from a December 23, 2014 Compensation Order on Remand  
by Administrative Law Judge Joan E. Knight  
AHD No. PBL 13-002, DCP No. 30120433947-0001

Lindsay M. Neinast for the Employer  
Richard Daniels, Authorized Non-Attorney Representative for the Claimant

Before JEFFREY P. RUSSELL, LINDA F. JORY, and HEATHER C. LESLIE, *Administrative Appeals Judges*.

JEFFREY P. RUSSELL for the Compensation Review Board.

**DECISION AND ORDER**

**FACTS OF RECORD AND PROCEDURAL HISTORY**

Claimant filed this appeal of a Compensation Order on Remand. Employer filed a Motion for Extension of Time within which to file its Memorandum in Support of its Opposition, which was granted by Order of the Chief Judge of the Compensation Review Board (CRB). In the order, Employer was given until February 17, 2014 to file said Memorandum. Employer did not file a Memorandum by that date, but did file a Memorandum on February 18, 2014. Because the filing was untimely, it will not be considered.

The remaining necessary procedural facts for this appeal are set forth below.

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## ANALYSIS

Normally, the scope of review by the CRB is limited to making a determination as to whether the factual findings of the appealed 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 § 1-623.28(a) of the D.C. Comprehensive Merit Personnel Act of 1978, as amended. D.C. Code § 1-623.01 *et seq.*, (“Act”). of the Act. Consistent with this standard of review, the CRB is constrained to uphold a Compensation Order that is supported by substantial evidence, even if there also is contained within the record under review substantial evidence to support a contrary conclusion and even if the CRB might have reached a different conclusion. *Marriott International v. DOES*, 834 A.2d 882, 885 (D.C. 2003).

However, in this appeal, because we are reviewing a Compensation Order on Remand that followed a Decision and Remand Order of the CRB with explicit and limited instructions after conducting a substantial evidence review of a prior Compensation Order, our task is to determine whether he ALJ carried out the directive of the CRB.

This matter comes before us on appeal by Claimant of a Compensation Order on Remand issued December 23, 2014, in which an Administrative Law Judge (ALJ) in the Administrative Hearings Division (AHD) of the Department of Employment Services (DOES) denied Claimant’s claim because notice to Employer was untimely. The ALJ took this action following the direction of the Compensation Review Board (CRB), which, in a Decision and Remand Order issued June 24, 2014, determined that Claimant’s notice to Employer was untimely as a matter of law, vacated a prior Compensation Order awarding benefits, and directed that AHD enter an Compensation Order denying the claim on those grounds. *See Sylvia Brown-Carson v. D.C. Office of Unified Communications*, CRB No. 13-132, AHD No. PBL 13-002, DCP No. 30120433947 (June 24, 2014).

Because of the posture of this case, we need not and will not address the arguments presented in this appeal, as they all go to the merits of the case, which have already been decided in the prior Decision and Remand Order.

However, for reasons unexplained, the ALJ in the instant case undertook to issue a completely new Compensation Order, making new findings of fact and conclusions of law. None of that was necessary and was in fact beyond the scope of the remand.

Accordingly, we vacate the findings fact and conclusions of law in the Compensation Order on Remand, except the following:

The CRB reviewed the matter and issued a Decision and Remand Order vacating the Compensation Order, with instructions to the undersigned to deny the claim for benefits due to Claimant’s failure to provide timely notice of her cumulative

trauma injury. *Sylvia Brown-Carson v. District of Columbia Office of Unified Communications*, CRB No. 13-132, AHD No. PBL 13-002, DCP No. 30120433947 (June 24, 2014).

...

**ORDER**

It is **ORDERED** that Claimant's claim for relief be, and hereby is **DENIED**.

Compensation Order on Remand, pp. 2 and 5, respectively.

The quoted language above comports with the mandate of the CRB, and is therefore affirmed.

CONCLUSION AND ORDER

The portion of the Compensation Order on Remand which exceeded the scope of the Decision and Remand Order is Vacated. The remainder of the Compensation Order on Remand quoted above is affirmed.

FOR THE COMPENSATION REVIEW BOARD:



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JEFFREY P. RUSSELL  
*Administrative Appeals Judge*

May 19, 2015

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DATE