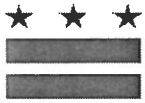
GOVERNMENT OF THE DISTRICT OF COLUMBIA

Department of Employment Services

MURIEL BOWSER
MAYOR



DEBORAH A. CARROLL
DIRECTOR

COMPENSATION REVIEW BOARD

CRB No. 14-064(A)(1)

DEPT. OF EMPLOYMENT SERVICES
COMPENSATION REVIEW BOARD
2015 OCT 27 PM 12 56

WILLIAM WORKCUFF,
Claimant,

v.

DISTRICT OF COLUMBIA HOUSING AUTHORITY,
Employer.

On Application for Approval of an Attorney's Fee Assessment
AHD No. PBL 12-022, DCP No. 76100100120020006

(Issued October 27, 2015)

Harold L. Levi for Claimant
Andrea G. Comentale for Employer

Before JEFFREY P. RUSSELL, LINDA F. JORY, and HEATHER C. LESLIE, *Administrative Appeals Judges*, for the Compensation Review Board.

Jeffrey P. Russell for the Compensation Review Board,

ORDER AWARDING AN ATTORNEY'S FEE

Counsel for Claimant filed a fee application seeking an award of $9,960.00 as an attorney's fee for work performed before the Compensation Review Board (CRB), to be assessed against Employer, for the successful prosecution of the above noted claim, based upon having expended 41.50 hours prosecuting the claim before the CRB. That representation included defending three appeals of orders awarding Claimant back pay and medical bills. The final Decision and Order of the CRB affirmed the award.

A Show Cause Order was issued by the CRB directing Employer to file any opposition to the assessment of said fee against it.

Employer filed "Employer's Opposition to Fee Petition" (Employer's Opposition). In it, Employer raised the following objections to the request:

1. The fee application "provides no evidence of the actual benefit secured";
2. The fee application "improperly requests an award of attorney's fees in excess of the benefits allegedly secured"; and
3. The fee application "includes unreasonable and unjustified claims for fees".

On September 23, 2015, the CRB issued an "Order Denying an Award of an Attorney's Fee Without Prejudice"(the denial order).

Regarding the first two objections, the CRB determined that review of the fee application confirmed that it contained no purported calculation or statement as to the amount "of the actual benefit secured". The CRB also agreed that a fee in excess of 20% of the "benefits secured" through the efforts of the attorney exceeds the statutory 20% cap. However, the CRB did not agree that the fee requested exceeded that limitation.

Employer also objected to an assessment for four separate time entries on the attachment to the fee application which Claimant submitted to establish the amount of time expended on the case. The CRB considered these objections, accepted some, and rejected others. The CRB disallowed 1.75 hours on December 27, 2012, reducing the approved number of hours to 39.75, yielding in the amount of $9,540.00 as representing the calculation of the amount of a fee earned based upon time expended.

Employer raised no other objections to the amount of the fee sought to be assessed, or the request that the fee be assessed against Employer.

The CRB denied the fee application without prejudice, subject to the filing of a new fee application that included a statement of the amount of the benefit claimed to have been secured through the services of the attorney, including the method and manner of their calculation, and omitting the request for the hours that had been disallowed. The denial order further indicated that upon such filing, the CRB would issue a show cause order directing Employer to show cause why the amount specified is in error, and based upon what response, if any, is filed by Employer, the CRB would further consider the application.

On September 30, 2015, a new fee application was filed conforming to the CRB's direction concerning the specificity of the basis for the determination of the benefits secured and omitting the disallowed time entries. The fee application indicated that benefits in the amount of $110,832.00 had been secured through counsel's efforts.

The CRB issued an "Order to Show Cause" on October 2, 2015, as outlined in the denial order.

On October 13, 2015, Employer filed a "Response to Order to Show Cause", in which it stipulated to the amount of the benefits secured as set forth in the second fee application. Employer raised no objections to the fee request in its response.

Accordingly, the fee application is granted in the amount of $9,540.00, to be paid by Employer, subject to the limitation that the total fees to be paid for representation in this case at all stages of

the litigation not exceed 20% of the amount of the benefits secured as a result of counsel's representation of Claimant, as specified in D.C. Code § 1-623.27(b)(2).

So ordered.