

**DISTRICT OF COLUMBIA COURT OF APPEALS**

No. 15-AA-0435

ROBERT LEE JOHNSON, PETITIONER,

v.

DISTRICT OF COLUMBIA  
DEPARTMENT OF EMPLOYMENT SERVICES, RESPONDENT,

and

HAMILTON CROWNE PLAZA HOTEL &  
ZURICH AMERICAN INSURANCE CO., INTERVENORS.

On Petition for Review  
of an Order of the District of  
Columbia Office of Administrative Hearings  
(CRB-156-14)

(Submitted February 11, 2016)

Decided March 8, 2016)

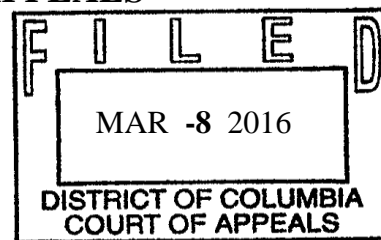
Before BECKWITH and MCLEESE, *Associate Judges*, and BELSON, *Senior Judge*.

**MEMORANDUM OPINION AND JUDGMENT**

PER CURIAM: Petitioner, Robert Lee Johnson, was employed as a cook for Hamilton Crowne Plaza Hotel, one of the intervenors in this case.<sup>1</sup> On February 29, 2009, petitioner was injured while at work when a metal pot fell off the top of a stove and struck him in the head. Petitioner filed a claim with the Department of Employment Services seeking permanent partial disability benefits. On October 29, 2014, a formal hearing was held before an administrative law judge (ALJ). On November 21, 2014, the ALJ issued a Compensation Order denying petitioner's claim.

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<sup>1</sup> Zurich American Insurance Company, the hotel's insurance company, also intervened in this appeal.



**I.**

Petitioner filed an application for review by the Compensation Review Board (CRB) (entitled “Opposing Points and Authorities in Support of the Application for Review”) dated December 24, 2014, and the date-stamp indicates it was received on the same date. On March 24, 2015, the CRB issued a decision and an order denying petitioner’s application for being filed untimely.

Petitioner filed a petition for review in this court.<sup>2</sup> In his petition, he explains that the ALJ’s Compensation Order took three to five days to reach him because of the way the postal system transmits mail, and effectively argues that his filing should therefore not be deemed untimely. Petitioner did not raise this explanation for the untimeliness of his filing in his application for review by the CRB.<sup>3</sup>

**II.**

We uphold the CRB’s ruling dismissing petitioner’s application for review as untimely filed. Petitioner raises the assertion that he was disadvantaged by a three-to-five day delay in receiving the Compensation Order and that the lateness of his filing should be excused. The Compensation Order was issued on November 21, 2014, and the certificate of service was dated the same day. Under 7 DCMR § 258.2 (2005), an application for review must be filed within thirty calendar days from the date shown on the certificate of service of the Compensation Order. The regulations specifically provide that the time for filing of an application for review cannot be enlarged. 7 DCMR § 261.8. Thirty calendar days from the date on the certificate of service was December 21, 2014,

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<sup>2</sup> Petitioner proceeded before the ALJ and CRB *pro se* and *in forma pauperis* and continues to do so here.

<sup>3</sup> In his brief, petitioner makes two further claims, both of which were raised in his application for review. First, he requests a civil penalty of several million dollars against the ALJ under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. § 1320d, for publicizing his medical history in the Compensation Order. Second, he requests a civil penalty of \$3 million against the Crowne Plaza Hotel and its employee, Vanessa Peters, for “refusing to give [him] a referral slip to take to the hospital to get medical treatment for [his] head injury.” Petitioner cites no provision of law as the basis of such a penalty.

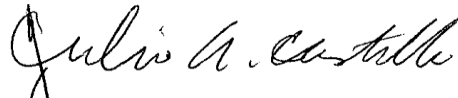
which was a Sunday. While the regulations do not provide guidance on filing deadlines that fall on a weekend or public holiday, they do state that procedural issues not addressed can be resolved by relying on the Superior Court Rules of Civil Procedure. 7 DCMR § 261.4. Superior Court Rule of Civil Procedure 6 provides that a filing deadline which falls on a day the court is closed is extended to the next day which is not a Saturday, Sunday, or legal holiday. In this case, petitioner's filing deadline was, therefore, Monday, December 22, 2014. He filed his appeal on December 24, 2014, two days late.

We are satisfied that the CRB correctly dismissed petitioner's application as untimely filed, given that the regulations required petitioner to seek review within thirty days. Petitioner filed his application two days late, and the regulations do not permit enlargement of time for filing an application for review.<sup>4</sup>

For the reasons set forth above, we affirm the decision and order of the Compensation Review Board.<sup>5</sup>

*Affirmed.*

ENTERED BY DIRECTION OF THE COURT



JULIO A. CASTILLO  
Clerk of the Court

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<sup>4</sup> Even if the CRB were permitted to enlarge the time period for filing an application for review (which is the case with other filing deadlines but not with respect to the filing of an application for review) such an enlargement of time would require a showing of "extraordinary circumstances." Petitioner asserts that it took three to five days for the mail to reach him. There is no indication that this is not consistent with the usual amount of time that it takes mail to reach an addressee and, even if it took three to five days, that left petitioner twenty-five to twenty-seven days to file a timely application for review. Thus, petitioner was not faced with extraordinary circumstances.

<sup>5</sup> As we affirm the CRB ruling that the petitioner's application for review was untimely, we do not reach his other contentions. We add, however, that we have reviewed them and find them without merit.

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