GOVERNMENT OF THE DISTRICT OF COLUMBIA

Department of Employment Services

VINCENT C. GRAY
MAYOR

F. THOMAS LUPARELLO
ACTING DIRECTOR

COMPENSATION REVIEW BOARD

CRB No. 13-042 (R)

BERTRAN LONG,
Claimant–Respondent,

v.

DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS,
Self-Insured Employer-Petitioner

On Remand from the District of Columbia Court of Appeals,
No. 13-AA-1399, (September 23, 2014), AHD No. PBL08-087B,

DEPT. OF EMPLOYMENT SERVICES
COMPENSATION REVIEW BOARD
2014 OCT 15 AM 9 40

Harold L. Levi for the Respondent
Andrea K. Comentale for the Petitioner

REMAND ORDER

On November 12, 2014, the CRB issued a decision in this matter, affirming a February 28, 2013 Compensation Order issued by an Administrative Law Judge (ALJ) which reinstated Claimant's temporary total disability benefits and holding the ALJ properly weighed the competing medical evidence on the issue of medical causal relationship, in accordance with precedent established in *Kralick v DOES*, 842 A.2d 705 (D.C. 2004).

On appeal, the District of Columbia Court of Appeals (DCCA) issued an Order on September 23, 2014, remanding this matter for further proceedings, consistent with statements in the petitioner's consent motion, requesting the ALJ's weigh the competing medical evidence in accordance with the more recent standard enunciated by the Court in *D.C. Public Schools v DOES*, 95 A.3d 1284, (2014) (*Proctor*).

In Proctor, the court reviewed a 2010 statutory amendment repealing the treating physician preference in public sector claims, holding:

> The legislative history manifests a clear and unmistakable intent on the part of Council to accord equal weight to the testimonies of both treating and non-treating physicians in public-sector cases brought under the (District of Columbia Comprehensive Merit Personnel Act).

Therefore, the ALJ's February 28, 2014 Compensation Order is vacated and this case remanded to the Administrative Hearings Division for additional proceedings that are consistent with the DCCA's September 23, 2014 Order.

FOR THE COMPENSATION REVIEW BOARD:

/s/ Lawrence D. Tarr
LAWRENCE D. TARR
Chief Administrative Appeals Judge

October 15, 2014
DATE