

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. 03-151

CHIUGO EZEANOCHE,

Claimant – Petitioner,

v.

GREATER SOUTHEAST COMMUNITY CENTER FOR AGING AND AIG SERVICES INC.,

Employer/Carrier – Respondent.

Appeal from a Compensation Order of
Administrative Law Judge E. Cooper Brown
OHA No. 03-500, OWC No. 578967

Richard Galiher, Jr., Esq., for the Petitioner

Michael S. Levin, Esq., for the Respondent

Before FLOYD LEWIS, LINDA F. JORY and SHARMAN J. MONROE, *Administrative Appeals Judges.*

SHARMAN J. MONROE, *Administrative Appeals Judge*, on behalf of the 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, 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 D.C. Workers' Compensation Administrative Reform and Anti-Fraud Amendment Act of 2004, sec. 1102 (Oct. 1, 1994), *codified at* D.C. Code Ann. § 32-1521.01 (2005). In accordance with the Director's Policy Issuance, the CRB replaces the Office of the Director in providing administrative appellate review and disposition of workers' and disability compensation claims arising under the D.C. Workers' Compensation Act of 1979, as amended, D.C. Code Ann. §§ 32-1501 to 32-1545 (2005) and the D.C. Government Comprehensive Merit Personnel Act of 1978, as amended, D.C. Code Ann. §§ 1-623.1 to 1.643.7 (2005), including responsibility for administrative appeals filed prior to October 1, 2004, the effective date of the D.C. Workers' Compensation Administrative Reform and Anti-Fraud Amendment Act of 2004.

BACKGROUND

This appeal follows the issuance of a Compensation Order from the Administrative Hearings Division (AHD) of the Office of Hearings and Adjudication (OHA) in the District of Columbia Department of Employment Services (DOES). In that Compensation Order, which was filed on December 18, 2003, the Administrative Law Judge (ALJ), found that the Claimant-Petitioner (Petitioner) sustained an injury which arose out of and in the course of her employment, but also found that she failed to prove by substantial credible evidence that she was unable to return to her usual employment from December 12, 2002 to March 14, 2003. The Petitioner now seeks review of that Compensation Order.

As grounds for this appeal, the Petitioner alleges as error that the decision below is arbitrary, unsupported by substantial evidence in the record and not in accordance with the law.

ANALYSIS

As an initial matter, the standard of review by the Compensation Review Board (CRB) and this Review Panel, as established by the Act and as contained in the governing regulations, is limited to making a determination as to whether the factual findings of the 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. D.C. Official Code § 32-1521.01 (d)(2)(A). “Substantial evidence,” as defined by the District of Columbia Court of Appeals, is such evidence as a reasonable person might accept to support a particular conclusion. *Marriott Int’l. v. District of Columbia Department of Employment Services*, 834 A.2d 882 (D.C. 2003). Consistent with this standard of review, the CRB and this Review Panel are constrained to uphold a Compensation Order that is supported by substantial evidence, even if there is also contained within the record under review substantial evidence to support a contrary conclusion, and even where the reviewing authority might have reached a contrary conclusion. *Marriott*, 834 A.2d at 885.

The record in this case was reviewed in its entirety. The Panel determines that the ALJ’s factual findings are supported by substantial evidence on the record as a whole, and are conclusive, and that the ALJ’s legal conclusions are in accordance with the law. *Marriott Int’l. v. Dist. of Columbia Dep’t. of Employment Servs.*, 834 A.2d 882 (D.C. 2003); D.C. Workers’ Compensation Act of 1979, as amended, D.C. Code Ann. § 32-1501 to 32-1545 (2005), at § 32-1521.01(d)(2)(A). The Panel defers to and accepts the ALJ’s credibility determinations as well. *See Mohamed Nasser v. Moran Limousine Services*, Dir. Dkt. No. 91-80, H&AS No. 90-818 (September 9, 1992). The record fully supports the ALJ’s thorough, well reasoned decision, and the Panel, therefore, adopts the reasoning and legal analysis expressed by the ALJ in that decision in affirming the Compensation Order in all respects.²

² D.C. Workers’ Compensation Act of 1979, as amended, D.C. Code Ann. §32-1501 to 32-1545 (2005), at §32-1521.01(d)(2)(B) requires a more detailed and thorough written order than the instant Decision and Order where there is a reversal of the Compensation Order.

CONCLUSION

The Compensation Order of December 18, 2003 is supported by substantial evidence in the record and is in accordance with the law.

ORDER

The Compensation Order of December 18, 2003 is hereby AFFIRMED.

FOR THE COMPENSATION REVIEW BOARD:

SHARMAN J. MONROE
Administrative Appeals Judge

March 21, 2006
DATE