

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Department of Employment Services

MURIEL BOWSER
MAYOR



DEBORAH A. CARROLL
DIRECTOR

COMPENSATION REVIEW BOARD

COMPENSATION REVIEW BOARD

CRB No. 15-070

FIKERE BELAY,
Claimant–Petitioner,

v.

TEMPS OF D.C. and TRAVELERS INSURANCE Co.,
Employer/Carrier-Respondents.

Appeal from an August 21, 2014 Compensation Order by
Administrative Law Judge Gerald D. Roberson
AHD No. 13-497A, OWC No. 682896

(Issued July 10, 2015)

Fikere Belay, Claimant *pro se*
Scott E. Snyder for the Employer

LAWRENCE D. TARR for the Compensation Review Board.

ORDER DISMISSING APPLICATION FOR REVIEW

PROCEDURAL HISTORY AND FACTS OF RECORD

This case is before the Compensation Review Board (CRB) on the request of the Claimant for review of an August 21, 2014 Compensation Order issued by an Administrative Law Judge (ALJ) in the Administrative Hearings Division (AHD), Department of Employment Services (DOES).

In that Compensation Order, the ALJ denied the Claimant's request for temporary total; disability benefits for the period of July 29, 2011 to August 19, 2011, and ordered the Employer to pay any outstanding medical expenses related to a July 29, 2011 work related injury.

Claimant was working for Employer from May 2011 to January 2013, performing various jobs, when on July 29, 2011, while performing his duties, he stepped on a broken wine glass. The glass penetrated his right foot, for which Claimant sought emergency room treatment at George

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Washington University Hospital. *Belay v. Temps of D.C.*, AHD No. 13-497A, OWC No. 682896 (August 21, 2015).

On April 30, 2015, Claimant filed an Application for Review with the CRB, indicating, that “based upon the record herein and the applicable law” he disagrees with the August 21, 2014 Compensation Order. The Employer filed a timely response requesting the Claimant’s AFR be dismissed because it was not timely filed pursuant to D.C. Code § 32-1522(b)(2A)(A).

ANALYSIS

As a matter of law, if an Application for Review is not filed timely, the CRB does not have authority to consider the merits of the appeal.

D.C. Code § 32-1522(b)(2A)(A) states:

A party aggrieved by a compensation order may file an application for review with the [CRB] within 30 days of the issuance of the compensation order. A party adverse to the review may file an opposition answer within 15 days of the filing of an application for review.

In addition, 7 DCMR § 258.2 provides:

[f]ilings with the Board of any permitted pleading, including the Application for Review, shall be deemed effective upon actual receipt by the Office of the Clerk.

Finally, 7 DCMR § 299 defines the word “day” as a “calendar day, unless otherwise specified in the Act or this chapter”; however, pursuant to 7 DCMR § 256.3,

[t]he Office of the Clerk of the Board shall be open from 8:30 a.m. to 5:00 p.m. on all days except Saturdays, Sundays, and legal holidays, for the purpose of receiving Applications for Review and such other pleadings, motions and papers as are pertinent to any matter before the Board.

The Certificate of Service attached to the Compensation Order in the instant appeal, shows it issued on August 21, 2014 and was served upon the parties the same day. The 30-day calendar period, in which an aggrieved party had to file an application for review, began on that date and ended on September 20, 2014, a Saturday.

When the thirtieth (30th) calendar day falls on a Saturday, Sunday, or legal holiday, the deadline is extended to the next business day. *See Jackson v. ECAB*, 537 A.2d 576, 578 (D.C. 1988), 7 DCMR § 299.

Thus, in order to meet the statutory framework and to be timely filed, Claimant’s Application for Review must have been filed by the close of business on Monday September 22, 2014. Claimant

filed his Application for Review on April 30, 2015, as noted by the CRB's date-stamp, and therefore it is not timely.

ORDER

Claimant's Application for Review is hereby **DISMISSED** as untimely filed. Any and all remaining issues are moot.

So Ordered.