

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Department of Employment Services

MURIEL BOWSER
MAYOR



ODIE DONALD II
ACTING DIRECTOR

COMPENSATION REVIEW BOARD

CRB No. 17-005

JOSE R. GAMEZ,
Claimant-Respondent,

v.

BAKERS DC, LLC and
AMERICAN ZURICH INSURANCE COMPANY,
Employer/Insurer-Petitioners.

Appeal from a December 12, 2016 Compensation Order by
Administrative Law Judge Gerald D. Roberson
AHD No. 16-451, OWC No. 730818

DEPT. OF EMPLOYMENT
SERVICES
COMPENSATION REVIEW
BOARD
2017 MAR 20 AM 11 09

(Decided March 20, 2017)

John R. Kelly for Claimant
Jose L. Estrada for Employer

Before HEATHER C. LESLIE, LINDA F. JORY, and GENNET PURCELL, *Administrative Appeals Judges*.

HEATHER C. LESLIE, for the Compensation Review Board.

DECISION AND ORDER

FACTS OF RECORD AND PROCEDURAL HISTORY

On December 12, 2016, a Compensation Order ("CO") was issued in *Gamez v. Bakers DC, LLC*, AHD No. 16-451, OWC No. 730818 (December 12, 2016). In that CO, the Administrative Law Judge ("ALJ"), after considering the claim for relief and the issues presented for adjudication, awarded temporary total disability from June 25, 2015 to October 28, 2015 and permanent partial disability of 23% for the left index finger.

On January 12, 2017, Employer appealed the CO. Claimant filed a Claimant's Motion to Dismiss Employer's Application for Review on January 23, 2017, arguing Employer's appeal should be dismissed as untimely.

ANALYSIS

We note that as a matter of law, if an application for review is not timely filed, the Compensation Review Board ("CRB") does not have the authority to consider an application for review.

D.C. Official Code § 32-1522(a) states in pertinent part:

A party aggrieved by a compensation order may file an application for review with the Board within 30 days of the issuance of the compensation order.

In addition, 7 DCMR § 258.2 states:

An Application for Review must be filed within thirty (30) calendar days from the date shown on the certificate of service of the compensation order or final decision from which appeal is taken.

The CO herein appealed was issued by the ALJ on December 12, 2016 and served upon the parties the same day. Attached to the CO was a page which outlined the parties "Appeal Rights" stating where an application for review was to be sent and when. Any Application for Review had to be filed within 30 calendar days of the date of the Certificate of Service. Pursuant to the foregoing provisions, an Application for Review should have been filed with the CRB on or before Wednesday, January 11, 2017, to be timely.

A review of the administrative file reveals the Employer filed an application for review on Thursday, January 12, 2017. Accordingly, the appeal is dismissed as being untimely.

CONCLUSION AND ORDER

The Application for Review was not filed in a timely fashion.

The Application for Review is **DISMISSED**.

So ordered.