GOVERNMENT OF THE DISTRICT OF COLUMBIA

Department of Employment Services

MURIEL BOWSER
MAYOR

DEBORAH A. CARROLL
DIRECTOR

COMPENSATION REVIEW BOARD

CRB 14-075

SAUNDRA TAYLOR,
Claimant-Petitioner

v.

VERIZON COMMUNICATIONS,
Employer-Respondent

DEPT. OF EMPLOYMENT SERVICES
COMPENSATION REVIEW BOARD
2015 APR 28 AM 10 55

Saundra Taylor, Pro Se Claimant
Curtis B. Hane for the Employer

ORDER

PROCEDURAL BACKGROUND

On October 30, 2014, the Compensation Review Board ("CRB") issued a Decision and Order that denied Claimant's requests (1) to suspend or set aside an August 6, 2010 Compensation Order issued by an Administrative Law Judge ("ALJ") and (2) to reverse and remand a May 19, 2014, Order on Second Remand issued by a different ALJ.

Claimant's appeal of CRB's October 30, 2014 Decision and Order is pending before the District of Columbia Court of Appeal ("DCCA"). Claimant moved the DCCA to supplement the record. The DCCA denied Claimant's motion and Claimant sought reconsideration. On February 18, 2015, the DCCA issued an Order that stated in pertinent part:

> ORDERED that the motion for reconsideration without prejudice to petitioner filing an appropriate motion with the administrative agency

On March 4, 2015, Claimant filed with the CRB a Motion to Supplement the Record and Motion to Add New Evidence. Because Claimant did not send Employer a copy of her motion, the CRB sent a letter on March 18, 2015 that advised the parties it was sending a copy of the motion to Employer's counsel and further notified Employer that any response to the motion must be filed on or before March 27, 2015. Employer has not filed any response to Claimant's motion.

DISCUSSION

Claimant's Motion seeks to supplement the CRB's record to include the following items:

1. Copies of Employer/Third-Party Administrator's Requests for Production of Documents to Claimant and Claimant's Answers to Interrogatories.[1]

2. A September 20, 2010 facsimile from Claimant's (then) counsel to an administrative assistant at the Administrative Hearings Division sending copies of two pages from Bluff Magazine that listed her poker tournament earnings from 2000-2010.

3. A copy of Self Insured Employer's Proposed Findings of Fact, Conclusions of Law, and Closing brief dated October 15, 2009.

4. The facsimile transmittal letter from Claimant's (then) counsel to Employer's counsel that contained copies of the same two pages from Bluff Magazine identified in #2.

5. An August 26, 2011 letter from Claimant to ALJ Jory asking for a copy of Defense Exhibit 11, which is the same two pages from Bluff Magazine.

The item in Appendix #1, Employer's Request for Production of Documents and Claimant's Answer's to Interrogatories and the item in Appendix #3, the self-insured Employer's proposed findings of fact, conclusions of law, and closing brief, were part of a previous claim. *Taylor v. Verizon Communications, Inc.*, CRB No. 05-235, OHA/AHD No. 03-216B, OWC No. 571165 (June 16, 2005) aff'd sub nom. *Taylor and Peterson v. DOES, Verizon Communications, Inc. and Howard University Hospital*, Interveners, Nos. 05-AA-700, 05-AA-1208 (May 30, 2008).

Each of these documents would not be included in the hearing record of the claim that is presently before the DCCA unless they were specifically introduced by a party at the June 16, 2011 formal hearing for the claim that now is before the DCCA.

Claimant does not argue that these documents were introduced at the formal hearing. In her March 4, 2015 motion, claimant asserts that these documents were presented to Employer and further asserts they are "material and relevant."

Even if the documents were presented to Employer, Employer was under no obligation to introduce these discovery documents at the hearing. Additionally, the materiality of the proposed documents is but one of the elements that must be proven

7 DCMR §264.1 states that for additional evidence to be submitted to the CRB, in addition to materiality, there must exist reasonable grounds for not presenting the document at the formal hearing. Subsection 264.1 states:

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[1] We should note that there appears to be an error with the submission of the Request for Production of Documents. The document submitted with Claimant's motion appears to be a combination of two documents—the title page says that it was sent by Employer but the third page says that it was submitted by Claimant's (then) counsel.

> Where a party requests leave to adduce additional evidence the party must establish:
>
> (a) that the additional evidence is material, and
>
> (b) that there existed reasonable grounds for the failure to present the evidence while the case was before the Administrative Hearings Division or the Office of Workers' Compensation (depending on which authority issued the compensation order from which appeal was taken).

Even if we accept Claimant's assertion that the information is material, Claimant has not established reasonable grounds for the failure to introduce these documents at the formal hearing. Accordingly, the CRB must deny this part of Claimant's motion.

The items in Appendix 2, 4 and 5 all relate to information found on Bluff Magazine's internet web site. This information lists Claimant's poker tournament winnings from 2000-2010.

Claimant asserts that the document that was submitted into the hearing record was incomplete and therefore "was a fraudulent document that presents a false document that presents a false representation of material facts of Ms. Taylor's past poker tournament winnings for the years of 2000 through 20002."

An identical request was made by Claimant and denied by the CRB in 2011. On January 14, 2011, the CRB affirmed an ALJ's decision denying her claim for permanent total disability benefits. After the CRB's decision, Claimant filed a motion seeking to set aside the CRB's decision asserting, as she does now, that Employer's Exhibit 11 was a false document.

The CRB, after noting that the motion was untimely, held:

> We recognize that the D.C. Superior Court may relieve a party from a final order under certain circumstances, such as fraud by an adverse party pursuant to Rule 60(b)(3); nevertheless, the factual allegations contained in Ms. Taylor's Motion do not qualify as fraud so as to circumvent her untimely filing. The gist of Ms. Taylor's contention is that Employer's Exhibit 11 is false because it is "incomplete;" however, an incomplete document is not a fraudulent document.
>
> To substantiate her position, Ms. Taylor provides additional evidence to supplement the information contained in Employer's Exhibit 11, not to prove that the information in Employer's Exhibit 11 is false. Even if we recognize, as Ms. Taylor wishes us to do, that additional information was available at the time Employer's Exhibit 11 was printed, the availability of additional relevant information makes Employer's Exhibit 11 an incomplete document, not a fraudulent document.

> Moreover, giving Ms. Taylor the benefit of the doubt that Employer's Exhibit 11 is now missing from the record does not alone or combined with Ms. Taylor's allegations satisfy Rule 60(b)(3).
>
> Because Ms. Taylor failed to file her Motion timely and because she failed to allege facts that give rise to a claim of fraud pursuant to Superior Court Rule 60(b)(3), she is not entitled to reconsideration of the Decision and Order dated January 14, 2011, and we cannot consider the merits of Ms. Taylor's other claims.

Taylor v. Verizon Communications, Inc. CRB No. 10-163, Order Dismissing Motion To Set Aside Decision and Order Issued January 14, 2011 (July 27, 2011).

The CRB endorses the previous finding with respect to Claimant's assertion that the exhibit that was submitted is a fraudulent document. At most, it is an incomplete document. Moreover, as with the items in Appendix #1 and Appendix #3, Claimant has not satisfied the requirements of 7 DCMR §264.1.

In conclusion, the CRB finds that there are no grounds presented by Claimant that justify adding any of the documents for which Claimant seeks to supplement the record. The items sought to be added in Appendices #1 and #3 and the items on Bluff Magazines' web site that Claimant seeks to introduce in Appendices #2, 4 and 5 could have been introduced at the June 16, 2011 formal hearing. Claimant has not presented any reasonable grounds, for her failure to introduce them at the hearing. Additionally, the document that was introduced might have been incomplete, but it was not fraudulent.

For these reasons, the CRB hereby DENIES Claimant's Motion

FOR THE COMPENSATION REVIEW BOARD:

LAWRENCE D. TARR
Chief Administrative Appeals Judge

April 28, 2015
DATE