

**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 No. (Dir. Dkt.) 04-18**

**HELENER SCOTT,**

Claimant–Respondent,

v.

**MARRIOTT WARDMAN PARK HOTEL AND MARRIOTT INTERNATIONAL,**

Employer/Carrier–Petitioner.

Appeal from a Compensation Order of  
Administrative Law Judge E. Cooper Brown  
OHA/AHD No. 03-530, OWC No. 569603

Joel E. Ogden, Esquire, for the Petitioner

Timothy Brown, Esquire, for the Respondent

Before JEFFREY P. RUSSELL, SHARMAN J. MONROE, and FLOYD LEWIS, *Administrative Appeals Judges*.

JEFFREY P. RUSSELL, *Administrative Appeals Judge*, for the Compensation 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).<sup>1</sup>

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<sup>1</sup>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 District of Columbia Workers’ Compensation Administrative Reform and Anti-Fraud Amendment Act of 2004, *codified at* D.C. Official Code § 32-1521.01. In accordance with the Director’s Directive, the CRB replaces the Office of the Director in providing administrative appellate review and disposition of workers’ and disability compensation claims arising under the District of Columbia Workers’ Compensation Act of 1979, as amended, D.C. Code Ann. §§ 32-1501 to 32-1545 (2005), and the District of Columbia 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 District of Columbia Workers’

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 followed a formal hearing conducted on November 13, 2003, and was filed on January 14, 2004, the Administrative Law Judge (ALJ) granted the relief requested by Respondent, being temporary total disability benefits from May 7, 2003 through the date of the formal hearing and continuing, temporary partial disability benefits from April 25, 2003 through May 6, 2003, and provision of certain medical benefits as described in the Compensation Order. Petitioner now seeks review of that Compensation Order. However, in this appeal, Petitioner does not contest the findings as to the nature and extent of disability nor does it contest the reasonableness or necessity of the medical care that was awarded, nor does it contest the finding that Respondent's average weekly wage is \$602.69.

This case is now before the Compensation Review Board on Petitioner's appeal.

Review of the memorandum in support of Petitioner's Application for Review reveals that the sole basis of the appeal is Petitioner's assertion that the ALJ erred in accepting the opinions of Respondent's three treating physicians that the claimed disability and the related need for the claimed medical care is causally related to the stipulated work injury of July 1, 2001. The basis of this complaint is that "none of the treating physicians were aware that Claimant experienced symptoms identical to those" that were the subject of Respondent's compensation claim prior to the incident of July 1, 2001. Self-Insured Employer's Memorandum of Points and Authorities in Support of Application for Review (Petitioner's Memorandum), page 9.<sup>2</sup> However, Petitioner cites no evidence in support of this assertion of ignorance by the physicians of Respondent's prior medical history, which history the ALJ specifically discussed and rejected as calling for denial of the claim. Compensation Order, page 5 – 6. Further, Petitioner's argument amounts to nothing more than that, in Petitioner's view, its evidence was superior to that of Respondent. However, it is well established and beyond argument that the weight to be accorded the evidence presented is a matter left to the broad discretion of the ALJ, who in this case followed the long established requirement of according great weight to the opinions of all three treating physicians in regard to the sole issue on appeal herein. These factual findings of the hearing examiner are entitled to great deference if supported by substantial evidence. See, *Georgetown Univ. v. District of Columbia Dep't. of Employment Serv's.*, 862 A.2d 387 (D.C. 2004); *4934, Inc. v. District of Columbia Dep't. of Employment Serv's.*, 605 A.2d 50, 53 (D.C. 1992). Even where we might have reached a different result upon an independent review of the record, we are bound by the ALJ's factual findings. See, *Pickrel v. District of Columbia Dep't. of Employment Serv's.*, 760 A.2d 199, 203 (D.C. 2000).

The record has been reviewed and we find that the ALJ's factual findings are supported by substantial evidence on the record as a whole, and are therefore conclusive. *Marriott Int'l. v. District of Columbia Dep't. of Employment Serv's.*, 834 A.2d 882 (D.C. 2003); D.C. Workers'

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Compensation Administrative Reform and Anti-Fraud Amendment Act of 2004.

<sup>2</sup> Although 11 pages in length, the bulk of Petitioner's Memorandum consists of a procedural background discussion, description of record evidence, and a recitation of the applicable standards of review. The substance of Petitioner's legal argument is contained in and is generally limited to two paragraphs, beginning on page 9 and carrying over to page 10.

Compensation Act of 1979, as amended, D.C. Code Ann. §32-1501 to 32-1545 (2005), at §32-1521.01(d)(2)(A). We defer to and accept the ALJ’s credibility determinations as well. The record fully supports the ALJ’s thorough, well reasoned decision, and we therefore adopt the reasoning and legal analysis expressed by the ALJ in that decision in affirming the Compensation Order in all respects.<sup>3</sup>

**ORDER**

The Compensation Order of January 14, 2004 is hereby affirmed.

FOR THE COMPENSATION REVIEW BOARD:

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JEFFREY P. RUSSELL  
Administrative Appeals Judge

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October 6, 2005

DATE

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<sup>3</sup> We do note, however, that although it was stipulated by the parties that Respondent had sustained an accidental work related injury on July 1, 2001, the ALJ framed the issue before him as being whether Respondent “suffered an injury within the meaning of [the Act]”. Compensation Order, page 6. In fact, the issue should have been framed by reference to whether the complained of condition and alleged disability are causally related to the stipulated work injury. This initial error in framing the issue is harmless, however, in that the ALJ properly considered the question of causal relationship, according Respondent the presumption of such a relationship as required under *Whittaker v. District of Columbia Dep’t. of Employment Serv’s.*, 688 A.2d 844 (D.C. 1995), then proceeding to consider the opposing evidence from Petitioner and properly finding the presumption to have been overcome, and then weighing the evidence without regard to the presumption, but taking into account the treating physician preference, in arriving at the conclusion that the conditions presented at the formal hearing were causally related to the work injury. See, Compensation Order, page 7.