

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Employment Services

VINCENT C. GRAY
MAYOR



LISA MARÍA MALLORY
DIRECTOR

COMPENSATION REVIEW BOARD

CRB No. 13-092

ERNEST YOUNG III,
Claimant–Respondent,

v.

DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS,
Employer–Petitioner.

Appeal from a June 24, 2013 Compensation Order of
Administrative Law Judge Nata K. Brown
AHD No. PBL 09-100A, DCP No. 30090784864-0001

Kevin J. Turner, Esquire, for the Petitioner
Harold L. Levi, Esquire, for the Respondent

Before HEATHER C. LESLIE, HENRY W. MCCOY, *Administrative Appeals Judges* and LAWRENCE D. TARR, *Chief Administrative Appeals Judge*.

HEATHER C. LESLIE, for the Compensation Review Board.

ORDER DISMISSING APPLICATION FOR REVIEW

This appeal arises from an Application for Review (AFR) filed July 24, 2013 seeking review of a June 24, 2013 Compensation Order issued by an Administrative Law Judge (ALJ) in the Office of Hearings and Adjudication of the District of Columbia Department of Employment Services (DOES). At the Formal Hearing, the Claimant sought an award reinstating temporary total disability benefits and medical benefits from March 28, 2012 to the present and continuing. In the Compensation Order, the ALJ determined the Claimant’s back and left leg conditions continue to be medically casually related to the July 27, 2009 work injury.

Contemporaneously with the AFR, Petitioner, the Employer, filed “Petitioner’s Request for an Extension of Time to Submit Its Memorandum of Points and Authorities in Support of the Application for Review”, seeking an extension of time through July 31, 2013 to file a memorandum setting forth the basis of the appeal, a subject upon which the AFR was silent, beyond an assertion that the Compensation Order “is not based upon substantial evidence and is not in accordance with the governing Act and other applicable regulations.” AFR, page 1. On August 15, 2013, the Claimant filed a Motion to Strike or Dismiss Petition for Review and “Memorandum in Support of Motion.” The Employer did not respond to this motion.

On September 10, 2013, the Compensation Review Board issued an Order granting the extension to September 20, 2013.

On September 27, 2013, the Claimant filed “Claimant-Respondent’s Renewed Motion to Strike or Dismiss Petition for Review And Memorandum in Support of Motion”, seeking dismissal of the appeal for failure to file a memorandum of points and authorities or other such pleading setting forth the basis of the appeal. Specifically, the Claimant argues:

On August 12, 2013, Claimant-Respondent’s counsel attempted to inquire of Petitioner’s counsel, by both email and telephone, regarding the status of Petitioner’s memorandum. Petitioner’s counsel did not respond to either the call or the email. Petitioner’s time to file its supporting memorandum has long passed on September 10, 2013 when, without the benefit of a further motion by Petitioner, the CRB issued an order granting Petitioner until September 20, 2013 to file its memorandum. Even now, five days past the September 20, 2013 deadline and more than two months past its statutory deadline, Petitioner still has not filed its required supporting memorandum, and it has failed to give the CRB any explanation, justification or excuse for its failure.

Claimant’s motion at 2.

Review of the administrative file confirms that no such memorandum or other paper has been filed with the CRB, and that the motion to dismiss remains unopposed.

ORDER

Accordingly, the “Claimant-Respondent’s Motion to Strike or Dismiss Petition for Review And Memorandum in Support of Motion” is granted.

FOR THE COMPENSATION REVIEW BOARD:

HEATHER C. LESLIE,
Administrative Appeals Judge

October 24, 2013

DATE