

CASE NO. 5984 CRB-2-15-1 : COMPENSATION REVIEW BOARD
CLAIM NOS. 200014799; 200020856;
200150807; 200160295; 200163571;
200163577; 200163579; 200163582;
200163586; 200164867; 200170144;
200170367 and 800168970

BRADLEY MCLAIN
CLAIMANT-APPELLANT : WORKERS' COMPENSATION
COMMISSION

v.

: OCTOBER 29, 2015

CITY OF NEW LONDON
EMPLOYER

and

CONNECTICUT INTERLOCAL RISK
MANAGEMENT AGENCY
INSURER
RESPONDENTS-APPELLEES

APPEARANCES: The claimant was represented by Norma Bremmer-McLain,
3300 Rollingbrook Drive, Unit 118, Baytown, TX 77521.
Claimant did not file a brief or attend oral argument.

The respondents were represented by Jennifer A. Hock,
Esq., McGann, Bartlett & Brown, 111 Founders Plaza,
Suite 1201, East Hartford, CT 06108.

This Petition for Review from the January 13, 2015 Notice
of Denial of Claims of the Commissioner acting for the
Eighth District was heard August 28, 2015 before a
Compensation Review Board panel consisting of
Commissioners Randy L. Cohen, Stephen M. Morelli and
Peter C. Mlynarczyk.

OPINION

RANDY L. COHEN, COMMISSIONER. The claimant has commenced an appeal from a Notice of Denial of Claims issued by Commissioner David Schoolcraft on January 13, 2015. This document chronicles the status of this claimant's claim against his employer, which we addressed in prior appeals. See McLain v. New London Board of Education, 5606 CRB-8-10-11 (July 19, 2011); McLain v. New London Board of Education, 5575 CRB-2-10-7 (May 13, 2011); McLain v. New London, 5512 CRB-2-09-11 (November 9, 2010), *appeal dismissed*, AC 32893 (March 17, 2011); McLain v. New London, 5555 CRB-2-10-5 (June 8, 2010) and McLain v. New London, 5459 CRB-8-09-5 (May 13, 2009). The claimant filed a Petition for Review and a "Statement of Reason for this Appeal" alleging this document created an appealable issue. As the claimant did not file a brief, and the issues presented were not the subject of a prior formal hearing, the respondents filed a Motion to Dismiss arguing the claimant failed to properly prosecute his appeal. We note the claimant did not appear for oral argument before our tribunal on August 28, 2015 and the respondents have alleged prejudice in the manner the claimant pursued this appeal. Therefore, we grant the Motion to Dismiss.

The present matter was commenced when the claimant's spouse and attorney-in-fact filed a hearing request dated December 16, 2014 with the Commission. Commissioner Schoolcraft responded to this request with the aforementioned Notice of Denial of Claims, advising of the results of prior hearings, the current obligations of the respondents to the claimant under Chapter 568 and indicating a stipulated award in this matter had not been made. The claimant did not seek a formal hearing to address these issues, but instead filed a Petition for Review and Reasons for Appeal to the

Compensation Review Board. The claimant never filed a brief. As noted previously, the respondents have moved to dismiss the appeal for a failure to prosecute.

We concur and grant the Motion to Dismiss. The respondents point out that this appeal is from a letter issued by a trial commissioner, and not from a decision the commissioner reached after a formal evidentiary hearing. Absent an evidentiary record the Compensation Review Board cannot properly consider an appeal under Sec. 31-301. See Morgillo v. Ginnetti Trucking, 5941 CRB-3-14-6 (July 15, 2014). The respondents also have asserted they were prejudiced by the manner in which the claimant pursued this appeal. As we pointed out in Marino v. Cenveo/Craftman Litho, Inc., 5448 CRB-5-09-3 (March 16, 2010), when an appellant fails to sufficiently apprise the tribunal and the opposing party of their rationale for the appeal prior to the hearing, the appeal is subject to dismissal. We also note the claimant was properly noticed that the matter would be heard on our docket of August 28, 2015, and the appellant did not appear for oral argument on that date. For the reasons cited in Lopez v. A. Anastasio Fence Co., 5101 CRB-4-06-6 (May 23, 2007), we must dismiss the appeal.¹

Commissioners Stephen M. Morelli and Peter C. Mlynarczyk concur in this opinion.

¹ The respondents have raised a standing issue, arguing that the appointment of a legal conservator for the claimant denies his spouse and attorney-in-fact standing to file legal documents on his behalf. As we have alternative grounds to dismiss this appeal we do not reach this issue, which has not been the subject of any prior evidentiary hearing.