

CASE NO. 6473 CRB-8-22-4 : COMPENSATION REVIEW BOARD
CLAIM NO. 800209326 & 100219205

ANGELA BELL : WORKERS' COMPENSATION
CLAIMANT-APPELLANT COMMISSION

v. : NOVEMBER 28, 2022

HARTFORD HEALTHCARE AT HOME
EMPLOYER

and

ST. PAUL TRAVELERS
INSURER
RESPONDENTS-APPELLEES

APPEARANCES:

The claimant appeared at oral argument before the board as a self-represented party. At the trial level, the claimant was represented by Alan J. Rome, Esq., Rome Clifford Katz & Koerner, LLP, 214 Main Street, Hartford, CT 06106.

The respondent was represented by James L. Pomeranz, Esq., McGann, Bartlett & Brown, LLC, 111 Founders Plaza, Suite 1201, East Hartford, CT 06108. Prior to oral argument, Attorney Pomeranz filed a notice of appearance on August 3, 2022, changing the law firm from Pomeranz, Drayton & Stabnick to McGann, Bartlett & Brown, LLC.

This Ruling Re: Motion for Additional Evidence regarding the Petition for Review from the March 23, 2022 Finding and Dismissal of Peter C. Mlynarczyk, Administrative Law Judge acting for the Eighth District, was heard September 30, 2022 before a Compensation Review Board panel consisting of Chief Administrative Law Judge Stephen M. Morelli and Administrative Law Judges Daniel E. Dilzer and Carolyn M. Colangelo.

RULING RE: MOTION FOR ADDITIONAL EVIDENCE

STEPHEN M. MORELLI, CHIEF ADMINISTRATIVE LAW JUDGE. The claimant has appealed from the March 23, 2022 Finding and Dismissal of Peter C. Mlynarczyk, Administrative Law Judge acting for the Eighth District, who dismissed her claim for benefits regarding two injuries, one to her arm and the other to her shoulder, that she claimed were causally related to her employment. The claimant commenced a timely appeal from this decision and, on April 20, 2022, she submitted a motion for additional evidence. The purpose of this motion was to supplement the record with additional evidence that the claimant believed had been omitted in error. After hearing oral argument, we conclude that the evidence in question had been available at all times during the pendency of the formal hearing and is substantially already in the record for this claim. Accordingly, we deny the motion.

Connecticut General Statutes § 31-301 (b) authorizes the board to review additional evidence not submitted to the administrative law judge in limited circumstances.¹ The procedure that parties must employ in order to request the board to review additional evidence is provided in Section 31-301-9 of the Regulations of Connecticut State Agencies.² As we held in Baker v. HUG Excavating, Inc., 5443

¹ General Statutes § 31-301 (b) states: “The appeal shall be heard by the Compensation Review Board as provided in section 31-280b. The Compensation Review Board shall hear the appeal on the record of the hearing before the commissioner, provided, if it is shown to the satisfaction of the board that additional evidence or testimony is material and that there were good reasons for failure to present it in the proceedings before the commissioner, the Compensation Review Board may hear additional evidence or testimony.”

² Section 31-301-9 of the Regulations of Connecticut State Agencies states: “If any party to an appeal shall allege that additional evidence or testimony is material and that there were good reasons for failure to present it in the proceedings before the commissioner, he shall by written motion request an opportunity to present such evidence or testimony to the compensation review division, indicating in such motion the nature of such evidence or testimony, the basis of the claim of materiality, and the reasons why it was not presented in the proceedings before the commissioner. The compensation review division may act on such motion with or without a hearing, and if justice so requires may order a certified copy of the evidence for

CRB-7-09-3 (March 5, 2010), however, the claimant must establish that certain conditions are present in order to have evidence added to the record. “As the Appellate Court pointed out in Mankus v. Mankus, 107 Conn. App. 585 (2008), when a litigant seeks pursuant to Admin. Reg. § 31-301-9 to present previously unconsidered evidence directly to this panel the moving party must establish good cause.” Id. “Thus, in order to request the board to review additional evidence, the movant must include in the motion 1) the nature of the evidence, (2) the basis of the claim that the evidence is material and (3) the reason why it was not presented to the commissioner.” Mankus, supra, 596.

At oral argument before this tribunal, the nature of the evidence the claimant wished to have added to the record was discussed. After a colloquy as to the nature of the claimant’s injury and the proposed additional evidence, the claimant conceded she did not have evidence that was previously unavailable.

JUDGE COLANGELO: I just want to -- just repeat, sort of what -- just so that we’re clear because I want to make sure that I understand.

Are there documents or transcripts, or deposition transcripts, that are not in evidence?

MS. BELL: No, everything I'm telling you is in evidence. It just was not brought up. It’s all here.

September 30, 2022 Transcript, pp. 8-9.

Following that exchange, this discussion ensued.

JUDGE MORELLI: Ms. Bell, we are not unsympathetic to the pain you went through and may continue to go through, nor your disagreement with how the case was handled by [your attorney].

We’re not unsympathetic to any of these things. But for the purposes of today, you have essentially indicated there is no

the use of the employer, the employee or both, and such certified copy shall be made a part of the record on such appeal.”

additional evidence that you need us to consider so that we can properly hear the underlying case at the next hearing.

MS. BELL: What I submitted to you, through Stephanie Parrot, is what the additional evidence was.

JUDGE MORELLI: Okay.

JUDGE DILZER: I want to be clear. What you gave to Stephanie was available at the time of the trial, right?

MS. BELL: Mm-hmm, yeah --

JUDGE DILZER: But it wasn't presented the way you would have liked?

MS. BELL: Correct.

September 30, 2022 Transcript, pp. 10-11.

As the claimant has conceded that she does not have additional evidence that was unavailable as of the time of the formal hearing, we believe that the necessary predicate to grant relief pursuant to Section 31-301-9 of the Regulations of Connecticut State Agencies is not present herein. Furthermore, as already noted, much of the purported additional evidence is already part of the record. Accordingly, we deny this motion.

Administrative Law Judges Daniel E. Dilzer and Caroline M. Colangelo concur in this Ruling.