

**WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA**

CHRISTOPHER RODRIGUEZ, *Applicant*

vs.

**MILHOLLAND ELECTRIC, INC.;
SCIF, *Defendants***

**Adjudication Number: ADJ15765070
San Bernardino District Office**

**OPINION AND ORDER
DISMISSING PETITION FOR
RECONSIDERATION**

Applicant, in pro per¹, seeks reconsideration of the February 9, 2022, Order Approving Compromise and Release (OACR) wherein the workers' compensation administrative law judge (WCJ) approved of the parties' settlement agreement.

It appears from applicant's 12-page Petition that he contends that the OACR should be set aside because the Compromise and Release (C&R) was procured by fraudulent and incomplete medical information.

We received an answer from defendant. The WCJ issued a Report and Recommendation on Petition for Reconsideration (Report) recommending that we dismiss or deny reconsideration and that we treat the petition as a Petition to Set Aside the OACR.

We have considered the allegations of applicant's Petition, the answer, and the contents of the report of the WCJ with respect thereto.

Based on our review of the record, and for the reasons discussed below, we will dismiss the Petition for Reconsideration as premature, and return this matter to the trial level for consideration of the Petition as one to set aside the OACR.

¹ On April 20, 2023, applicant filed a Notice of Dismissal of Attorney dated April 3, 2023.

BACKGROUND

Applicant claimed industrial injury to his back, arm, scalp, hips, and face on September 1, 2021, while employed by defendant as a Solar Inspector, Installer, & Technician. (C&R, p. 3.)

On September 17, 2021, applicant was examined by Ozioma Enworom, NP. The report states applicant was placed on modified duty at work.

On January 12, 2022, applicant, in pro per, signed the C&R and on January 26, 2022, the claims adjuster signed the C&R. The parties agreed to a settlement amount of \$7,500.00 with no deductions and State Fund to pay, adjust, negotiate, or litigate all liens of record within jurisdiction of the WCAB. (C&R, p. 6.)

On February 7, 2022, the claims adjuster submitted the executed C&R to the WCJ for approval by way of a letter². Along with the C&R, the claims examiner submitted Correspondence-Other-SCIF (Lien Affidavit) dated 1/27/2022; Benefit Printout – SCIF dated 1/26/2022; Treating Physician -Ozioma Enworom, NP dated 9/17/2021; and Benefit Notice dated 9/24/2021.

On February 8, 2022, WCJ Sharon Renzi issued the OACR, which states:

In evaluating this Compromise and Release agreement, consideration has been given to the fact that said document releases the rights of applicant's dependents to death benefits. Considering all of the facts in the case, the consideration is found adequate for normal benefits and possible death benefits and is hereby approved. (SUMNER v. WCAB, 48 C.C.C. 369)

The parties to the above-entitled action having filed a Compromise and Release herein on **02/07/2022** settling this case for **\$7,500.00**, and requesting that it be approved, and this Board having considered the entire record, including said Compromise and Release, now finds that it should be approved. The entire medical record is incorporated herein by reference.

IT IS ORDERED that said Compromise and Release be approved: **AWARD IS MADE** in favor of: Applicant, **CHRISTOPHER RODRIGUEZ** against Defendant **MILHOLLAND ELECTRIC, INC**; **SCIF** in the sum of **\$7,500.00**.

² The document listed as Proof of Service in the Electronic Adjudication Management System (EAMS) dated February 7, 2022, is titled Transmittal Letter and incorrectly identified in EAMS as Proof of Service. The transmittal letter accompanied the C&R along with the four(4) documents listed in the letter. All of the documents listed in the letter are uploaded into and identified in EAMS.

IT IS FURTHER ORDERED THAT Defendant(s) pay, adjust, or litigate all other liens; Jurisdiction reserved to the Board on All Outstanding Liens or Disputed Adjustments thereof.

(February 9, 2022, OACR, p. 1.)

On September 1, 2022, applicant substituted in Michael Yap as his attorney.

On September 2, 2022, applicant's attorney filed a DWC-1 and an Amended Application for Adjudication both dated August 31, 2022.

In a document dated April 3, 2023, and filed on April 20, 2023, applicant filed a Dismissal of Attorney.

On June 19, 2023, applicant filed a Petition for Reconsideration dated June 11, 2023.

On June 27, 2023, defendant filed an answer.

DISCUSSION

“The appeals board has continuing jurisdiction over all its orders, decisions, and awards made and entered under the provisions of [Division 4] . . . At any time, upon notice and after the opportunity to be heard is given to the parties in interest, the appeals board may rescind, alter, or amend any order, decision, or award, good cause appearing therefor.”³ (Lab. Code, § 5803.)

We observe that contract principles apply to settlements of workers' compensation disputes. The legal principles governing compromise and release agreements are the same as those governing other contracts. (*Burbank Studios v. Workers' Co. Appeals Bd. (Yount)* (1982) 134 Cal.App.3d 929, 935.) For a compromise and release agreement to be effective, the necessary elements of a contract must exist, including an offer of settlement of a disputed claim by one of the parties, and an acceptance by the other. (*Id.*) There can be no contract unless there is a meeting of the minds and the parties mutually agree upon the same thing. (Civ. Code, §§ 1550, 1565, 1580; *Sackett v. Starr* (1949) 95 Cal. App. 2d 128; *Sieck v. Hall* (1934), 139 Cal. App. 279, 291; *American Can Co. v. Agricultural Ins. Co.* (1909) 12 Cal.App. 133, 137.) Stipulations between the parties must be interpreted to give effect to the mutual intention of the parties as it existed at the time of contracting, so far as the same is ascertainable and lawful. (*County of San Joaquin v. Workers' Compensation Appeals Bd. (Sepulveda)* (2004) 117 Cal.App.4th 1180, 1184 [69 Cal.Comp.Cases 193]; Civ. Code, § 1636.)

To determine whether there is good cause to rescind the awards and stipulations, the circumstances surrounding their execution and approval must be assessed. (See Labor Code §5702;

³ All further statutory references are to the Labor Code unless otherwise noted.

County of Sacramento v. Workers' Comp. Appeals Bd. (Weatherall) (2000) 77 Cal. App.4th 1114, 1118-1121 [65 Cal.Comp.Cases 1]; *Robinson v. Workers' Comp. Appeals Bd. (Robinson)* (1987) 194 Cal.App.3d 784, 790-792 [52 Cal.Comp.Cases 419]; *Huston v. Workers' Comp. Appeals Bd. (Huston)* (1979) 95 Cal.App.3d 856, 864-867 [44 Cal.Comp.Cases 798].) However, as recognized in *Weatherall*, the Appeals Board may also, in its discretion, reject factual stipulations and set the matter for hearing and further investigation. (*Weatherall, supra*, at p. 1119; Lab. Code, § 5702.) Further, stipulations such as those in a compromise and release are binding on the parties unless, on a showing of good cause, the parties are given permission to withdraw from their agreements. (*County of Sacramento v. Workers' Comp. Appeals Bd. (Weatherall)* (2000) 77 Cal. App.4th 1114, 1121 [65 Cal.Comp.Cases 1]).) "Good cause" to set aside stipulations depends on the facts and the circumstances of each case and includes mutual mistake of fact, duress, *fraud*, undue influence, and procedural irregularities. (*Johnson v. Workers' Comp. Appeals Bd.* (1970) 2 Cal.3d 964, 975 [35 Cal.Comp.Cases 362]; *Santa Maria Bonita School District v. Workers' Comp. Appeals Bd.* (2002) 67 Cal.Comp.Cases 848, 850 (writ den.); *City of Beverly Hills v. Workers' Comp Appeals Bd. (Dowdle)* (1997) 62 Cal.Comp.Cases 1691, 1692 (writ den.); *Smith v. workers' Comp. appeals Bd.* (1985) 168 Cal.App.3d 1160, 1170 [50 Cal.Comp.Cases 311].)

Here, the core of applicant's numerous contentions is that: "The Compromise and Release settlement was done under false medical information and Incomplete Medical Information. . . . All Liability needs to be overturned because, the settlement award is abusive and may not even cover all medical bills, that were covered by: Center of Medicare & Medicaid Services – of coordination of Benefits and Recovery and the State of California Department of Human Health Services Which is illegal to make me pay for my treatment. . . . All liability should be overturned, due to existing information but unknown information to me at the time of making decisions." Applicant appears to be alleging there was fraud in connection with the C&R, because the medical information was allegedly false and incomplete and the settlement may not cover all of his medical bills.

"The Workers' Compensation Appeals Board shall inquire into the adequacy of all Compromise and Release agreements and Stipulations with Request for Award and may set the matter for a hearing to take evidence when necessary to determine whether the agreement should be approved or disproved, or issue findings and awards." (Cal. Code Regs., tit. 8, §10700(b).)

Additionally, there must be a complete record in order to review the case. "[A] proper record enables any reviewing tribunal, be it the Board on reconsideration or a court on further

appeal, to understand the basis for the decision (*Hamilton v. Lockheed Corporation* (2001) 66 Cal. Comp. Cases 473, 475 [2001 Cal. Wrk. Comp. LEXIS 4947 (Appeals Bd. en banc).) The Appeals Board's record of proceedings is maintained in the adjudication file and consists of: the pleadings, minutes of hearing and summary of evidence, transcripts, if prepared and filed, proofs of service, evidence received in the course of a hearing, exhibits marked but not received in evidence, notices, petitions, briefs, findings, orders, decisions, and awards, and the arbitrator's file, if any. . . . Documents that are in the adjudication file but have not been received or offered in evidence are not part of the record of proceedings. (Cal. Code Regs., tit 8, §10803.)

Furthermore, all parties in workers' compensation proceedings retain their fundamental right to due process and a fair hearing under both the California and United States Constitutions. (*Rucker v. Workers' Comp. Appeals Bd.* (2000) 82 Cal.App.4th 151, 157-158 [65 Cal.Comp.Cases 805] (Rucker).) A fair hearing includes, but is not limited to, the opportunity to call and cross-examine witnesses; introduce and inspect exhibits; and to offer evidence in rebuttal. (*Gangwish v. Workers' Comp. Appeals Bd.* (2001) 89 Cal.App.4th 1284, 1295 [66 Cal.Comp.Cases 584]; Rucker, supra, 82 Cal.App.4th at pp. 157-158, citing *Kaiser Co. v. Industrial Acc. Com.* (1952) 109 Cal.App.2d 54, 58 [17 Cal.Comp.Cases 21]; *Katzin v. Workers' Comp. Appeals Bd.* (1992) 5 Cal.App.4th 703, 710-712 [57 Cal.Comp.Cases 230].)

It appears that applicant is alleging that at the time he entered into the C&R, there was medical information that existed but he could not consider it because he was allegedly not provided the information when he made the decision to settle his claim and sign the C&R. Thus, the parties must have an opportunity to be heard and the WCJ must create a complete record upon which a decision can be made by the WCJ.

Accordingly, we dismiss applicant's Petition for Reconsideration as premature, and return this matter to the WCJ for further proceedings consistent with this opinion. Upon return of this matter to the trial level, we recommend that the WCJ treat applicant's Petition as a petition to set aside and set a hearing. Then, applicant can provide evidence in support of his arguments contained in the Petition and create a record upon which a decision can be made by the WCJ.

For the foregoing reasons,

IT IS ORDERED that applicant's Petition for Reconsideration of the February 9, 2023, OACR is **DISMISSED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ JOSÉ H. RAZO, COMMISSIONER

I CONCUR,

/s/ CRAIG SNELLINGS, COMMISSIONER

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

August 18, 2023

SERVICE MADE ON THE ABOVE DATE ON THE PERSONS LISTED BELOW AT THEIR ADDRESSES SHOWN ON THE CURRENT OFFICIAL ADDRESS RECORD.

**CHRISTOPHER RODRIGUEZ
STATE COMPENSATION INSURANCE FUND**

DM/oo

I certify that I affixed the official seal of the Workers' Compensation Appeals Board to this original decision on this date. o.o