

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

**RODERICK WOODS, *Applicant***

**vs.**

**CITY OF RICHMOND, permissibly self-insured, administered by  
ACCLAMATION INSURANCE MANAGEMENT SERVICES, *Defendants***

**Adjudication Number: ADJ12430442  
Oakland District Office**

**OPINION AND DECISION  
AFTER RECONSIDERATION**

We granted reconsideration in order to further study the factual and legal issues in this case. This is our Opinion and Decision After Reconsideration.

Applicant Roderick Woods seeks reconsideration of the Findings and Order (F&O) issued by a workers' compensation arbitrator (WCA) on July 12, 2021, wherein the WCA found that applicant was not entitled to temporary disability indemnity arising from his prostate surgery based upon Labor Code section 4853<sup>1</sup> as well as an August 22, 2017 stipulated agreement between applicant and his employer in conjunction with his industrial disability retirement (IDR).

Applicant contends that the arbitrator's findings denying temporary disability benefits is not justified because the arbitrator failed to consider the uncontradicted and unrebutted testimony of the applicant, and that further, the retirement stipulation does not bar applicant's entitlement to TD benefits.

We received an Answer from defendant. We received a Report and Recommendation on Petition for Reconsideration (Report) from the WCA, which recommends that we deny reconsideration.

We have considered the allegations of the Petition for Reconsideration and the Answer and the contents of the Report with respect thereto. Based on our review of the record, and for the reasons discussed below, we will rescind the F&O and return the matter to the arbitrator due to the

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<sup>1</sup> All further references are to the Labor Code unless otherwise indicated.

lack of a proper record. When the WCA issues a new decision, any aggrieved person may timely seek reconsideration.

WCAB Rule 10990 provides that if the arbitrator does not rescind the entire order, decision or award within 15 days of receiving the petition for reconsideration per WCAB Rule 10990(f)(1) or 10990(f)(2), WCAB Rule 10990(f)(3) requires the arbitrator to submit to the Appeals Board an electric copy of the complete record of proceedings including:

- (A) The transcript of proceedings, if any;
- (B) A summary of testimony if the proceedings were not transcribed;
- (C) The documentary evidence submitted by each of the parties;
- (D) An opinion that sets forth the rationale for the decision; and
- (E) A report on the petition for reconsideration, consistent with the provisions of rule 10962. The original arbitration record shall not be filed.

(Cal. Code Regs., tit. 8, § 10990(f)(3)(A)-(E); see also Lab. Code, §§ 3201.5(a)(1), 3201.7(a)(3)(A).)

Here, the WCA issued the Report on September 2, 2021, however, to date, an electronic copy of the complete record of proceedings has not been submitted.

The Appeals Board may not ignore due process for the sake of expediency. (*Barri v. Workers' Comp. Appeals Bd.* (2018) 28 Cal.App.5th 428, 469 [83 Cal.Comp.Cases 1643] [claimants in workers' compensation proceedings are not denied due process when proceedings are delayed in order to ensure compliance with the mandate to accomplish substantial justice]; *Rucker v. Workers' Comp. Appeals Bd.* (2000) 82 Cal.App.4th 151, 157-158 [65 Cal.Comp.Cases 805] [all parties to a workers' compensation proceeding retain the fundamental right to due process and a fair hearing under both the California and United States Constitutions].) "Even though workers' compensation matters are to be handled expeditiously by the Board and its trial judges, administrative efficiency at the expense of due process is not permissible." (*Fremont Indem. Co. v. Workers' Comp. Appeals Bd.* (1984) 153 Cal.App.3d 965, 971 [49 Cal.Comp.Cases 288]; see *Ogden Entertainment Services v. Workers' Comp. Appeals Bd. (Von Ritzhoff)* (2014) 233 Cal.App.4th 970, 985 [80 Cal.Comp.Cases 1].)

The Appeals Board's constitutional requirement to accomplish substantial justice means that the Appeals Board must protect the due process rights of every person seeking reconsideration. (See *San Bernardino Cmty. Hosp. v. Workers' Comp. Appeals Bd.* (1999) 74 Cal.App.4th 928, 936 [64 Cal.Comp.Cases 986] ["essence of due process is . . . notice and the opportunity to be heard"]; *Katzin v. Workers' Comp. Appeals Bd.* (1992) 5 Cal.App.4th 703, 710 [57 Cal.Comp.Cases 230].) In fact, "a denial of due process renders the appeals board's decision unreasonable..." and therefore vulnerable to a writ of review. (*Von Ritzhoff, supra*, 233 Cal.App.4th at p. 985 citing Lab. Code, § 5952(a), (c).) Thus, due process requires a meaningful consideration of the merits of every case de novo with a well-reasoned decision based on the evidentiary record and the relevant law.

As with a workers' compensation administrative law judge (WCJ), an arbitrator's decision must be based on admitted evidence and must be supported by substantial evidence. (*Hamilton v. Lockheed Corporation (Hamilton)* (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Board en banc).) Meaningful review of an arbitrator's decision requires that the "decision be based on an ascertainable and adequate record," including "an *orderly identification* in the record of the evidence submitted by a party; and *what evidence is admitted or denied admission.*" (*Lewis v. Arlie Rogers & Sons* (2003) 69 Cal.Comp.Cases 490, 494, emphasis in original.) "An organized evidentiary record assists an arbitrator in rendering a decision, informs the parties what evidence will be utilized by the arbitrator in making a determination, preserves the rights of parties to object to proffered evidence, and affords meaningful review by the Board, or reviewing tribunal." (*Id.*; see also *Evans v. Workmen's Comp. Appeals Bd.* (1968) 68 Cal.2d 753 [a full and complete record allows for a meaningful right of reconsideration].)

We are unable to conduct meaningful review of the petition or render a decision based on an incomplete record. Accordingly, as our decision after reconsideration, we will rescind the arbitrator's decision and return the matter to the arbitrator for further proceedings consistent with this opinion. When the WCA issues a new decision, any aggrieved person may timely seek reconsideration.

For the foregoing reasons,

**IT IS ORDERED** as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the Findings and Order issued by the WCA on July 12, 2021 is **RESCINDED** and the matter is **RETURNED** to the arbitrator for further proceedings consistent with this decision.

**WORKERS' COMPENSATION APPEALS BOARD**

**/s/ JOSEPH V. CAPURRO, COMMISSIONER**

I CONCUR,

**/s/ KATHERINE A. ZALEWSKI, CHAIR**

**/s/ JOSÉ H. RAZO, COMMISSIONER**



**DATED AND FILED AT SAN FRANCISCO, CALIFORNIA**

**April 22, 2024**

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

**RODERICK WOODS  
FARNSWORTH LAW GROUP  
LAUGHLIN FALBO LEVY & MORESI  
RONNIE CAPLANE, ARBITRATOR**

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