

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

**COLLEEN RIVERS, *Applicant***

**vs.**

**THE VILLA CENTER, INC.; STATE COMPENSATION INSURANCE FUND,  
*Defendants***

**Adjudication Number: ADJ18150681  
Anaheim District Office**

**OPINION AND ORDER  
GRANTING PETITION FOR  
RECONSIDERATION  
AND DECISION AFTER  
RECONSIDERATION**

Defendant seeks reconsideration of the October 13, 2025 Order Approving Compromise and Release, wherein the workers' compensation administrative law judge (WCJ) determined that the submitted compromise and release (C&R) agreement was adequate and issued an award in the amount of \$365,000.00 in favor of applicant, less attorney's fees.

Defendant contends that it signed the C&R agreement without knowledge that applicant had died four days earlier.

We have not received an answer from any party. The WCJ prepared a Report and Recommendation on Petition for Reconsideration (Report), recommending that the Petition be dismissed as premature.

We have also received a Stipulation to Rescind and Set Aside Order Approving Compromise and Release, dated and signed by both parties on November 12, 2025.

We have considered the allegations of the Petition for Reconsideration, the joint Stipulation, and the contents of the report of the workers' compensation administrative law judge (WCJ) with respect thereto. Based on our review of the record, and for the reasons discussed below, we will grant reconsideration, approve the parties' stipulation to set aside the Order

Approving C&R, rescind the October 13, 2025 Order Approving C&R, and return this matter to the WCJ for further proceedings.

## **FACTS**

Applicant claimed injury to her head, hips, shoulders, arm and back while employed as a House Director by defendant The Villa Center on January 12, 2023.

On October 7, 2025, applicant and her attorney signed a proposed C&R agreement. (Compromise and Release, dated October 10, 2025.)

On October 9, 2025, applicant passed away. (Death Certificate, dated October 16, 2025.)

On October 10, 2025, defendant signed the C&R agreement.

On October 13, 2025, the parties presented the proposed C&R to a WCJ who found the settlement to be adequate and approved it. (Order Approving Compromise and Release, dated October 13, 2025.)

## **DISCUSSION**

### **I.**

Former Labor Code<sup>1</sup> section 5909 provided that a petition for reconsideration was deemed denied unless the Appeals Board acted on the petition within 60 days from the date of filing. (Lab. Code, § 5909.) Effective July 2, 2024, section 5909 was amended to state in relevant part that:

(a) A petition for reconsideration is deemed to have been denied by the appeals board unless it is acted upon within 60 days from the date a trial judge transmits a case to the appeals board.

(b)

(1) When a trial judge transmits a case to the appeals board, the trial judge shall provide notice to the parties of the case and the appeals board.

(2) For purposes of paragraph (1), service of the accompanying report, pursuant to subdivision (b) of Section 5900, shall constitute providing notice.

Under section 5909(a), the Appeals Board must act on a petition for reconsideration within 60 days of transmission of the case to the Appeals Board. Transmission is reflected in Events in

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

the Electronic Adjudication Management System (EAMS). Specifically, in Case Events, under Event Description is the phrase “Sent to Recon” and under Additional Information is the phrase “The case is sent to the Recon board.”

Here, according to Events, the case was transmitted to the Appeals Board on November 7, 2025, and 60 days from the date of transmission is January 6, 2026. This decision is issued by or on January 6, 2026, so that we have timely acted on the petition as required by section 5909(a).

Section 5909(b)(1) requires that the parties and the Appeals Board be provided with notice of transmission of the case. Transmission of the case to the Appeals Board in EAMS provides notice to the Appeals Board. Thus, the requirement in subdivision (1) ensures that the parties are notified of the accurate date for the commencement of the 60-day period for the Appeals Board to act on a petition. Section 5909(b)(2) provides that service of the Report and Recommendation shall be notice of transmission.

Here, according to the proof of service for the Report and Recommendation by the workers’ compensation administrative law judge, the Report was served on November 7, 2025, and the case was transmitted to the Appeals Board on November 7, 2025. Service of the Report and transmission of the case to the Appeals Board occurred on the same day. Thus, we conclude that the parties were provided with the notice of transmission required by section 5909(b)(1) because service of the Report in compliance with section 5909(b)(2) provided them with actual notice as to the commencement of the 60-day period on November 7, 2025.

## II.

Defendant’s Petition avers it signed the C&R agreement on October 10, 2025, without knowledge that applicant had passed away on October 9, 2025. (Petition, at p. 2:9.) Defendant further contends that it would not have signed the settlement agreement had it known of applicant’s passing. (*Id.* at p. 3:1.) Defendant asserts that when an applicant dies following the execution of a settlement agreement by all parties, the WCAB has discretion to approve the settlement. However, when an applicant dies prior to the execution of a settlement agreement by defendant, the agreement is voidable based on a mistake of fact. (*Id.* at p. 2:22.)

The WCJ’s Report observes that although defendant’s Petition is ostensibly timely, it is premature because defendant should have filed a Petition to Set Aside the Order Approving the C&R agreement. (Petition, at p. 2.) Accordingly, the WCJ recommends we dismiss the Petition

and return the matter to the trial level for the creation of an evidentiary record and a determination as to whether there is good cause to set aside the settlement. (*Ibid.*)

Following the submission of the WCJ's Report on November 7, 2025, the parties filed a Joint Stipulation on November 12, 2025 stating:

The Parties in this entitled action hereby stipulate to the following and request that the Court issue an Order Rescinding and Setting Aside Order Approving Compromise and Release for the following:

The Parties entered into a Compromise and Release which was filed and approved on 10/13/25.

The Applicant passed away on 10/9/25. Attached as Exhibit A is a true and correct copy of the Certificate of Death of the Applicant dated 10/16/25.

Applicant passed away prior to the signing of the Compromise and Release by Defendant. The Parties stipulate that the Compromise and Release is not enforceable and void.

WHEREFORE, it is hereby requested that the Court issue an Order Rescinding and Setting Aside Order Approving Compromise and Release.

(Stipulation to Rescind and Set Aside, dated November 12, 2025, at pp. 1-2.)

The Joint Stipulation attaches a copy of a Death Certificate which indicates applicant died on October 9, 2025. (Death Certificate, dated October 16, 2025.)

Pursuant to section 5702, the parties to a controversy may stipulate the facts relative thereto in writing and file such stipulation with the appeals board, and the WCAB may thereupon make its findings and award based upon such stipulation, or may set the matter down for hearing and take further testimony or make the further investigation necessary to enable it to determine the matter in controversy. (Lab. Code, § 5702; *Turner Gas Co. v. Workmen's Comp. Appeals Bd.* (1975) 47 Cal.App.3d 286 [40 Cal.Comp.Cases 253].)

Here, while we agree with the WCJ's analysis as set forth in the report, we observe that subsequent filing of the Joint Stipulation signed by the parties to the C&R agreement establishes good cause to set aside the Order Approving C&R. Accordingly, and following our review of the complete record, we exercise our discretion under section 5702 to approve the November 12, 2025 Joint Stipulation.

Based thereon, we will grant defendant's Petition, rescind the October 13, 2025 Order Approving C&R, and return this matter to the trial level for further proceedings at the discretion of the WCJ.

For the foregoing reasons,

**IT IS ORDERED** that reconsideration of the Order Approving Compromise and Release dated October 13, 2025, is **GRANTED**.

**IT IS FURTHER ORDERED** as the Decision After Reconsideration of the Workers' Compensation Appeals Board that the November 12, 2025 Joint Stipulation of the parties to Rescind and Set Aside [the] Order Approving Compromise and Release is **APPROVED**.

**IT IS FURTHER ORDERED** that the Order Approving Compromise and Release dated October 13, 2025 is **RESCINDED** and that the matter is **RETURNED** to the trial level for further proceedings and decision by the WCJ.

**WORKERS' COMPENSATION APPEALS BOARD**

/s/ JOSÉ H. RAZO, COMMISSIONER

**I CONCUR,**

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

/s/ KATHERINE A. ZALEWSKI, CHAIR



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

**December 15, 2025**

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

**COLLEEN RIVERS  
KRISTINE RIVERS  
BENTLEY & MORE  
STATE COMPENSATION INSURANCE FUND**

**SAR/abs**

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