

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

DANNY WILLIAMS, JR., *Applicant*

vs.

**STATE OF CALIFORNIA, CALIFORNIA HIGHWAY PATROL,
LEGALLY UNINSURED administered by
STATE COMPENSATION INSURANCE FUND, *Defendants***

**Adjudication Numbers: ADJ1946501 (SBR0318535); ADJ3777126 (SBR0340662)
San Bernardino District Office**

**OPINION AND ORDER
DISMISSING PETITION
FOR RECONSIDERATION**

Defendant seeks reconsideration of Awards issued by the workers' compensation administrative law judge (WCJ) on October 6, 2021, in case numbers ADJ1946501 and ADJ3777126,¹ wherein the WCJ approved stipulated settlement agreements.

Defendant contends that the parties made a mutual mistake regarding the interplay of Labor Code² section 4800.5 benefits and temporary disability benefits. Defendant further contends that the Awards should be amended or set aside.

We have not received an answer from applicant.

The WCJ issued a Report and Recommendation on Petition for Reconsideration (Report) recommending that we dismiss or deny reconsideration and that the matter should be returned to him to treat the Petition as one to set aside the Awards in case numbers ADJ1946501 and ADJ3777126.

We have considered the allegations in the Petition and the contents of the Report with respect thereto.

¹ Case numbers ADJ1946501, ADJ3777126, ADJ8764261, and ADJ11058066 were set for trial, but defendant challenges the Stipulations with Request for Award only in case numbers ADJ1946501 and ADJ3777126. Accordingly, case numbers ADJ8764261 and ADJ11058066 are not before us.

² All future statutory references are to the Labor Code, unless otherwise specified.

Based on our review of the record, and as recommended by the WCJ in his Report, and for the reasons provided below, we will dismiss defendant's Petition as premature, and return this matter to the trial level for consideration of the Petition as one to set aside the Awards.

FACTUAL BACKGROUND

Applicant claimed injury to various body parts, including his head, neck, back, right elbow, and right shoulder on January 15, 2008, while employed by defendant as a police officer.

In ADJ1946501, as relevant herein, the parties entered into the following stipulations:

A) Industrial disability leave was reimbursed for various broken dates and periods between 01/02/03 through 05/11/04. (Jurisdiction over IDL not conferred on the WCAB.)

B) In addition to section 2 above, temporary disability was also paid from 10/31/2015 through 01/31/2016 at the rate of \$640.22 per week in the amount of \$8,505.78.

(Stipulations with Request for Award in case ADJ1946501, dated October 6, 2021, p. 7.)

In ADJ3777126, as relevant herein, the parties entered into the following stipulations:

A) Industrial disability leave was reimbursed for various broken dates and periods between 01/19/2008 through 07/30/2014. (Jurisdiction over IDL not conferred on the WCAB.)

(Stipulations with Request for Award in case ADJ3777126, dated October 6, 2021, p. 7.)

On October 6, 2021, the parties appeared for trial on case numbers ADJ1946501, ADJ3777126, ADJ8764261, and ADJ11058066.

On October 6, 2021, the parties submitted executed Stipulations with Request for Award in case numbers ADJ1946501 and ADJ3777126.

On October 6, 2021, based on the executed Stipulations with Request for Awards, the WCJ issued Awards in case numbers ADJ1946501 and ADJ3777126.

Trial was continued to November 4, 2021 for the purpose of adjudicating case numbers ADJ8764261 and ADJ11058066.

On October 13, 2021, defendant filed a Petition for Reconsideration, contending that the parties entered into stipulations based on a mutual mistake on the calculation of section 4800.5

time and temporary disability benefits, and that defendant discovered new evidence material to the settlements in case numbers ADJ1946501 and ADJ3777126, which could not have been discovered at time of hearing.

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.* (1982) 134 Cal.App.3d 929, 935.) There can be no contract unless there is a meeting of the minds and the parties mutually agree. (Civ. Code, §§ 1550, 1565; *Sackett v. Starr* (1949) 95 Cal.App.2d 128; *Sieck v. Hall* (1934) 139 Cal.App.279, 291.) Moreover, there is no contract unless the parties agree upon the same thing in the same sense. (Civ. Code, § 1580; *American Can Co. v. Agricultural Ins. Co.* (1909) 12 Cal.App. 133, 137.) 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. (*Burbank Studios, supra*, at p. 935.) A contract must be so interpreted as 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. (Civ. Code, § 1636; *County of San Joaquin v. Workers’ Compensation Appeals Bd. (Sepulveda)* (2004) 117 Cal.App.4th 1180, 1184 [69 Cal.Comp.Cases 193].) The plain language of a contract is the first step in determining the intent of the parties. (Civ. Code, §§ 1638, 1639.)

A stipulation is “‘An agreement between opposing counsel . . . ordinarily entered into for the purpose of avoiding delay, trouble, or expense in the conduct of the action,’ (Ballentine, Law

³ 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; *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.)

Dict. (1930) p. 1235, col. 2) and serves ‘to obviate need for proof or to narrow range of litigable issues’ (Black’s Law Dict. (6th ed. 1990) p. 1415, col. 1) in a legal proceeding.” (*County of Sacramento v. Workers’ Comp. Appeals Bd. (Weatherall)* (2000) 77 Cal.App.4th 1114, 1118 [65 Cal.Comp.Cases 1].) Stipulations are binding on the parties. (*Id.*, at p. 1121.) However, if there is a showing of good cause, the parties may be permitted to withdraw from their stipulations. (*Id.*) Whether “good cause” exists to set aside a settlement depends upon the facts and circumstances of each case. “Good cause” includes mutual mistake of fact, duress, fraud, undue influence, and procedural irregularities. (*Johnson v. Workmen’s Comp. Appeals Bd.* (1970) 2 Cal.3d 964, 975 [35 Cal.Comp.Cases 362]; *Santa Maria Bonita School District v. Workers’ Comp. Appeals Bd. (Recinos)* (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].) 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; *Weatherall, supra*, at pp. 1118-1121; *Robinson v. Workers’ Comp. Appeals Bd.* (1987) 194 Cal.App.3d 784, 790-792 [52 Cal.Comp.Cases 419]; *Huston v. Workers’ Comp. Appeals Bd.* (1979) 95 Cal.App.3d 856, 864-867 [44 Cal.Comp.Cases 798].)

The parties appeared for trial with proposed Stipulations and Request for Award. After some discussion before the court, the parties were excused to further discuss potential resolution of the claims and thereafter the parties provided executed settlement agreements for the WCJ’s consideration. As the WCJ stated in the Report, he was not privy to specific settlement discussions that occurred prior to the October 6, 2021 trial. (Report at p. 3.)

Decisions of the Appeals Board “must be based on admitted evidence in the record.” (*Hamilton v. Lockheed Corporation (Hamilton)* (2001) 66 Cal.Comp.Cases 473, 476 (Appeals Board en banc).) Furthermore, decisions of the Appeals Board must be supported by substantial evidence. (Lab. Code, §§ 5903, 5952(d); *Lamb v. Workmen’s Comp. Appeals Bd.* (1974) 11 Cal.3d 274 [39 Cal.Comp.Cases 310]; *Garza v. Workmen’s Comp. Appeals Bd.* (1970) 3 Cal.3d 312 [35 Cal.Comp.Cases 500]; *LeVesque v. Workmen’s Comp. Appeals Bd.* (1970) 1 Cal.3d 627 [35 Cal.Comp.Cases 16].) An adequate and complete record is necessary to understand the basis for the WCJ’s decision and the WCJ shall “. . . make and file findings upon all facts involved in the

controversy[.]” (Lab. Code, § 5313; *Hamilton, supra*, at p. 476; *Blackledge v. Bank of America, ACE American Insurance Company* (2010) 75 Cal.Comp.Cases 613, 621-622.)

We agree with the WCJ that it is unclear whether there was a mutual mistake, as alleged by defendant, or whether the mistake is actually a unilateral misunderstanding. The WCJ recommends that we dismiss the Petition and instead return the matter to him to consider it as a Petition to set aside.

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].) Due process guarantees all parties the right to notice of hearing and a fair hearing. (*Id.*) 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. (See *Gangwish v. Workers’ Comp. Appeals Bd.* (2001) 89 Cal.App.4th 1284, 1295 [66 Cal. Comp. Cases 584]; *Rucker, supra*, at pp. 157-158 citing *Kaiser Co. v. Industrial Acci. Com. (Baskin)* (1952) 109 Cal.App.2d 54, 58 [17 Cal.Comp.Cases 21]; *Katzin v. Workers’ Comp. Appeals Bd.* (1992) 5 Cal.App.4 703, 710 [57 Cal.Comp.Cases 230].)

Accordingly, we dismiss defendant’s Petition as premature and return the 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 defendant’s Petition as a petition to set aside, including setting a hearing so defendant can provide evidence in support of its arguments and create a record upon which a decision can be made by the WCJ. After the WCJ issues a decision, any aggrieved person may then timely seek reconsideration of that decision.

For the foregoing reasons,

IT IS ORDERED that Defendant's Petition for Reconsideration of the October 6, 2021 Awards is **DISMISSED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ MARGUERITE SWEENEY, COMMISSIONER

I CONCUR,

/s/ JOSÉ H. RAZO, COMMISSIONER

/s/ ANNE SCHMITZ, DEPUTY COMMISSIONER



DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

December 9, 2021

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

JB/abs

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

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