WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

ROBBIE MARTINEZ, *Applicant*

vs.

ALTA LOMA SCHOOL DISTRICT, permissibly self-insured, administered by SEDGWICK, *Defendants*

Adjudication Number: ADJ14603066
Anaheim District Office

OPINION AND ORDER DISMISSING PETITION FOR RECONSIDERATION

Applicant seeks reconsideration of the July 22, 206 Award issued by the workers' compensation administrative law judge (WCJ) in accordance with the Stipulations with Request for Award (Stipulations) executed by the parties.

Applicant contends that the Stipulations are ambiguous because the amounts of temporary disability benefits already paid and permanent disability credits are "subject to proof"; and that defendant has not provided an accounting of those amounts.

We received an Answer from defendant. The WCJ issued a Report and Recommendation on Petition for Reconsideration (Report) recommending that the Petition for Reconsideration be dismissed as premature and the matter be returned to the WCJ for a hearing on whether good cause exists to set aside the Award.

We have considered the allegations of the Petition and Answer and the contents of the Report of the WCJ with respect thereto. Based on our review of the record, and as discussed below, we will treat the Petition as one seeking reconsideration, dismiss the Petition as premature, and return this matter to the trial level for consideration of the Petition as one to set aside the Award.

FACTS

We will briefly review the relevant facts.

Applicant, while employed as a special education teacher, claimed injury to the left knee, left foot, right elbow, right shoulder, right arm, and right hand arising out of and occurring in the course of employment by defendant on March 30, 2021.

On July 22, 2026, the parties executed the Stipulations.

The Stipulations provide that the injury caused temporary disability from March 31, 2021 through May 25, 2021, at $299.73 per week. (Stipulations, ¶ 2.) The Stipulations identify additional periods of temporary disability from August 5, 2021 through September 7, 2021; April 1, 2022 through March 26, 2023; April 3, 2023 through May 24, 2023; August 3, 2023 through November 19, 2023; November 27, 2023 through December 21, 2023; and January 8, 2024 through April 26, 2024 at the rate of $299.73 in the amount of $29,373.57. (Stipulations, ¶ 2(a).) They reflect permanent disability of 12% payable at a rate of $290.00 per week beginning April 27, 2024, in the sum of $11,092.50 less credit for such payments previously made. (Stipulations, ¶ 3.) Asterisks are handwritten next to the temporary disability amount of $29,373.57 and the permanent disability indemnity rate of $290.00, and below is a handwritten asterisk followed by the words "subject to proof." (Stipulations, ¶¶ 2(a), 3.) In Paragraph 9, it states that: "A. APPLICANT HAS BEEN ADEQUATELY COMPENSATED FOR ALL PERIODS OF TEMPORARY DISABILITY. *Subject to Proof.*" (Stipulations, ¶ 9.) The phrase "subject to proof" in Paragraph 9 is handwritten.

On that date, the WCJ issued an Award in accordance with the Stipulations. As relevant here, the Award provides for:

> (A) Temporary disability in accordance with paragraph 2 above,
>
> (B) Permanent disability indemnity as set forth in Paragraph 3 above,
> Less the sum of $1633.88 payable to applicant's attorney as the reasonable value of services rendered, to be commuted if necessary.

On August 17, 2026, applicant sought reconsideration of the Award.

DISCUSSION

I.

Petitions for reconsideration filed on or after July 14, 2026 are subject to Labor Code section[1] 5909, which states 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 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 August 18, 2026 and 60 days from the date of transmission is Saturday, October 17, 2026. The next business day that is 60 days from the date of transmission is Monday, October 19, 2026.(See Cal. Code Regs., tit. 8, § 10600(b).)[2] This decision is issued by or on Monday, October 19, 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

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[1] All further statutory references are to the Labor Code, unless otherwise noted.

[2] WCAB Rule 10600(b) (Cal. Code Regs., tit. 8, § 10600(b)) states that:

> Unless otherwise provided by law, if the last day for exercising or performing any right or duty to act or respond falls on a weekend, or on a holiday for which the offices of the Workers' Compensation Appeals Board are closed, the act or response may be performed or exercised upon the next business day.

act on a petition. Section 5909(b)(2) provides that service of the Report shall be notice of transmission.

Here, according to the proof of service for the Report, the Report was served on August 18, 2026, and the case was transmitted to the Appeals Board on August 18, 2026. 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 August 18, 2026.

II.

Under section 5803, the Appeals Board has continuing jurisdiction over all its orders, decisions and awards. (See also Lab. Code, § 5803.) Section 5702 states that:

> The parties to a controversy may stipulate the facts relative thereto in writing and file such stipulation with the appeals board. The appeals board 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.)

Further, "[t]he 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 hearing to take evidence when necessary to determine whether the agreement should be approved or disapproved, or issue findings and awards." (Cal. Code Regs., tit. 8, § 10700(b).)

"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 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].) We note that while the parties may stipulate to the facts in controversy, the WCJ is not bound by the parties' stipulations and may make further inquiry into the matter "to enable it to determine the matter in controversy." (Lab. Code, § 5702; see also *Weatherall, supra*, at p. 1119; *Turner Gas Co. v. Workers' Comp. Appeals Bd.* (*Kinney*) (1975) 47 Cal.App.3d 286 [40 Cal.Comp.Cases 253].) However, WCAB Rule 10835 provides that no finding shall be made

contrary to a stipulation of the parties without giving the parties notice and an opportunity to be heard. (Cal. Code Regs., tit. 8, § 10835.)

We also observe that contract principles apply to settlements of workers' compensation disputes, and "[t]he 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 [47 Cal.Comp.Cases 832].) "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. [Citation.]" (*Id*.)

The essential elements of contract include the mutual consent of the parties, as there can be no contract unless there is a meeting of the minds and the parties mutually agree upon the same thing in the same sense. (Civ. Code, §§ 1550, 1565, 1580; *German Sav. & Loan Soc. v. McLellan* (1908) 154 Cal. 710, 716; *Sackett v. Starr* (1949) 95 Cal.App.2d 128, 133.) "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. [Citations.]" (*County of San Joaquin v. Workers' Compensation Appeals Bd.* (*Sepulveda*) (2004) 117 Cal.App.4th 1180, 1184 [69 Cal.Comp.Cases 193].)

Additionally, there must be a complete record for our review of 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 (Appeals Bd. en banc).) Decisions of the Appeals Board "must be based on admitted evidence in the record" (*Id.* at p. 476), and 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]). As required by section 5313 and explained in *Hamilton*, "the WCJ is charged with the responsibility of referring to the evidence in the opinion on decision, and of clearly designating the evidence that forms the basis of the decision." (*Hamilton*, *supra*, at p. 475.)

Moreover, all parties to a workers' compensation proceeding 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].) A fair hearing includes, but is not limited to, the opportunity to call and cross-examine witnesses;

introduce and inspect exhibits; and 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].)

Here, applicant asserts that applicant's acceptance of defendant's claimed temporary-disability payments and permanent-disability credits was expressly "subject to proof," but the Award did not include a finding that the required proof was provided nor identify the evidence upon which any claimed credit was allowed. (Petition, August 17, 2026, p. 3, lines 1-15.) As such, applicant argues that the Award should be rescinded so that defendant's claimed payments and credits may be established by competent documentary evidence. (Petition, August 17, 2026, p. 3, lines 13-15.)

In the Report, the WCJ requested "that the matter be remanded to the undersigned for a Hearing on whether good cause exists to set aside the Award." (Report, August 18, 2026, p. 2, ¶ 6.) We agree.

In the absence of a record, we are unable to evaluate whether grounds exist to set aside the Award. Accordingly, we dismiss the Petition for Reconsideration as premature and return the matter to the trial level for further proceedings consistent with this opinion. Upon return of this matter to the trial level, the WCJ may treat the Petition as a petition to set aside the Award, conduct further proceedings, and create a record on which a decision can be made as to whether there are grounds for setting aside the Award. After the WCJ issues a decision, any aggrieved party may timely seek reconsideration.

Accordingly, we dismiss the Petition for Reconsideration as premature and return the matter to the trial level for further proceedings consistent with this opinion.

For the foregoing reasons,

IT IS ORDERED that the Petition for Reconsideration is **DISMISSED**.

WORKERS' COMPENSATION APPEALS BOARD

/s/ KATHERINE WILLIAMS DODD, COMMISSIONER

I CONCUR,

/s/ JOSEPH V. CAPURRO, COMMISSIONER

PAUL F. KELLY, COMMISSIONER
CONCURRING NOT SIGNING

DATED AND FILED AT SAN FRANCISCO, CALIFORNIA

OCTOBER 19, 2026

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

ROBBIE MARTINEZ
LAW OFFICES OF TOUS AND ASSOCIATES
O'CONNOR TELEZINSKI

DC/*pm*

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