

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Employment Services

MURIEL BOWSER
MAYOR



DEBORAH A. CARROLL
DIRECTOR

COMPENSATION REVIEW BOARD

CASSANDRA ROSS,)	CRB No.	16-039
)	AHD No.	PBL 96-013C
)	DCP No.	76103200011999-0006
Claimant-Petitioner,)		
)		
v.)		
)		
DC DEPARTMENT OF CORRECTIONS,)		
)		
Employer-Respondent.)		
_____)		

DEPT. OF EMPLOYMENT
SERVICES
COMPENSATION REVIEW
BOARD
2016 JUL 19 PM 12 18

(Issued July 19, 2016)

LAWRENCE D. TARR, *Chief Administrative Appeals Judge* for the Compensation Review Board.¹

ORDER DISMISSING APPLICATION FOR REVIEW

On February 23, 2016, Cassandra Ross (“Claimant”) filed an Application for Review of a January 22, 2016 Compensation Order on Remand issued by an Administrative Law Judge (“ALJ”) in the Administrative Hearings Division (“AHD”). Because the Application for Review was not timely filed, the Compensation Review Board (“CRB”) must dismiss it.

After Ms. Ross filed her Application for Review, she called the CRB to find out why she had not heard anything about her appeal. When told there was no record of her appeal, Ms. Ross presented her Priority Mail receipt from the United States Post Office (“USPS”), a copy of which is attached to this Order as Exhibit A.

¹ 7 DCMR § 265.5 (a) states:

Where a Review Panel has not been assigned to the case, the Chief Administrative Appeals Judge, or the Clerk of the Board where designated by the Chief Administrative Appeals Judge, may enter orders on behalf of the Board with respect to all non-dispositive motions, including motions for stays and for extensions of time for filing supporting and responding memorandum and briefs.

The Priority Mail receipt is signed by a Department of Employment Services employee, V. Lindsay, and shows the date of delivery is February 23, 2016.²

D.C. Code § 1-623. 28 (a) requires that an Application for Review must be filed within 30 days after the issuance of the compensation order: An Application for Review pursuant to this subsection must be filed within 30 days after the date of the issuance of the decision of the Mayor or his or her designee pursuant to §1-623.24 (b) (1).

The Certificate of Service from the Compensation Order on Remand shows that it was issued on January 22, 2016. Therefore, Ms. Ross had 30 days in which to file her Application for Review. Thirty calendar days after January 22, 2016 was February 21, 2016, a Sunday. Therefore, Ms. Ross had until the close of business on Monday February 22, 2016 to file her appeal.

7 DCMR § 257.1 provides that “filings ... shall be deemed effective upon actual receipt ...” Here, actual receipt was on February 23, 2016, one day late.

The facts that Ms. Ross represented herself or was only one day late does not permit the CRB to extend the time for filing her appeal. Indeed, as the underlined portion of 7 DCMR §261.8 shows, the CRB is specifically prohibited from extending the time for filing an Application for Review:

The time periods specified for submitting any filing described in section 258, except that for the filing of an Application for Review, may be enlarged for a reasonable period when, in the judgment of the Board, and upon a showing of exceptional circumstances by the requesting party, an enlargement is warranted.³

Therefore, Ms. Ross’s Application for Review was not filed within the applicable time and it is DISMISSED.

So ordered.

² That it was received on February 23, 2016 can also be seen from the USPS Product & Tracking Information sheet. (Exhibit B). This shows that a document was accepted by the Upper Marlboro, Maryland post office at 1:51 p.m. on February 22, 2016 and arrived at the USPS facility in Washington, D.C. 20066 at 4:20 a.m. on February 23, 2016. The document was sorted at the USPS facility in Washington, D.C. 20019 (the same zip code as the Department of Employment Services) and sent out for delivery on February 23, 2016 at 8:05 a.m. from that post office.

³ This has been the law even before the CRB was established. In 1988, the Employees’ Compensation Appeals Board (“ECAB”) reviewed compensation decisions under the predecessor statute to the District of Columbia Government Comprehensive Merit Personnel Act. Appeals from ECAB were required to be filed within 30 days with the D.C. Superior Court. In *Jackson v. District of Columbia Employees’ Compensation Appeals Board*, 537 A. 2d 576 (D.C.1988) the District of Columbia Court of Appeals affirmed the Superior Court’s dismissing an appeal of a workers’ compensation appeal that was filed one day late.

DEPT. OF EMPLOYMENT
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2016 MAR 21 AM 9 01

USPS TRACKING#
 9590 9402 1402 5329 1721 61

**First-Class Mail
 Postage & Fees Paid
 USPS
 Permit No. G-10**

**United States
 Postal Service**

Sender: Please print your name, address, and ZIP+4® in this box.
 Cassandra Ross
 3201 MAT CMLD LN
 UPPER MMBORO MD
 20774

Article Addressed to:
 Dept of Employment Service
 4058 MINNESOTA AVENUE
 WASH DC 20019

SENDER: COMPLETE THIS SECTION

Complete items 1, 2, and 3
 Print your name and address on the reverse
 so that we can return the card to you.
 Attach this card to the back of the mailpiece,
 or on the front if space permits.

Article Addressed to:
 Dept of Employment Service
 4058 MINNESOTA AVENUE
 WASH DC 20019

9590-9402-1402-5329-1721-61

EL239329005US

PS Form 3811, July 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee

B. Received by (Printed Name) *C. Ross* C. Date of Delivery *2-23-16*
 Yes No

D. Is delivery address different from item 1? Yes No
 If YES, enter address below

Service Type
 Adult Signature Registered Delivery
 Adult Signature Restricted Delivery Priority
 Mail Restricted Delivery Confirmation
 Insured Mail Restricted Delivery (over \$500) Restricted Delivery

Domestic Return Receipt

EXHIBIT A

English Customer Service USPS Mobile Register / Sign In



USPS Tracking®



Customer Service >
Have questions? We're here to help.



Get Easy Tracking Updates >
Sign up for My USPS.

Tracking Number: EL239329005US

Scheduled Delivery Day: Tuesday, February 23, 2016, 3:00 pm
Money Back Guarantee

Product & Tracking Information

Postal Product:
Priority Mail Express 1-Day™

Features:
Insured
Return Receipt

PO to Addressee
Up to \$100 Insurance included
Restrictions Apply

See tracking for related item: 9590940214025329172161

Available Actions

Proof of Delivery

Text Updates

Email Updates

DATE & TIME	STATUS OF ITEM	LOCATION
February 23, 2016 , 10:05 pm	Delivery status not updated	
The delivery status for this item has not been updated as of February 23, 2016, 10:05 pm.		
February 23, 2016 , 8:55 am	Arrived at Post Office	WASHINGTON, DC 20019
February 23, 2016 , 8:05 am	Out for Delivery	WASHINGTON, DC 20019
February 23, 2016 , 7:55 am	Sorting Complete	WASHINGTON, DC 20019
February 23, 2016 , 4:20 am	Arrived at USPS Facility	WASHINGTON, DC 20066
February 22, 2016 , 11:08 pm	Departed USPS Facility	LINTHICUM HEIGHTS, MD 21090
February 22, 2016 , 8:19 pm	Arrived at USPS Facility	LINTHICUM HEIGHTS, MD 21090
February 22, 2016 , 6:14 pm	Departed Post Office	UPPER MARLBORO, MD 20772
February 22, 2016 , 1:51 pm	Acceptance	UPPER MARLBORO, MD 20772

Track Another Package

Tracking (or receipt) number

Manage Incoming Packages

Track all your packages from a dashboard.
No tracking numbers necessary.

My USPS >

