

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

**Department of Employment Services**

**MURIEL BOWSER**  
MAYOR



**DEBORAH A. CARROLL**  
DIRECTOR

**COMPENSATION REVIEW BOARD**

**CRB No. 16-003 (1)**

**JEFFREY RHODEN,**  
**Claimant–Petitioner,**

**v.**

**MEGABUS and SEDGWICK CLAIMS MANAGEMENT SERVICES,**  
**Employer/Third Party Administrator-Respondent.**

Appeal from a December 9, 2015 Compensation Order by  
Administrative Law Judge Douglas A. Seymour  
AHD No. 15-304, OWC No. 723793

DEPT. OF EMPLOYMENT  
SERVICES  
COMPENSATION REVIEW  
BOARD  
2016 JUN 30 AM 9 59

(Decided June 30, 2016)

David J. Kapson for Claimant  
Julie D. Muarry for Employer

Before: **LINDA F. JORY, JEFFREY P. RUSSELL,** *Administrative Appeals Judges* and *Lawrence D. Tarr,* *Chief Administrative Appeals Judge.*

**LINDA F. JORY** for the Compensation Review Board.

**ORDER DENYING RECONSIDERATION**

On December 9, 2015, Administrative Law Judge (ALJ) Douglas A. Seymour issued a Compensation Order (CO) which denied Claimant’s claim for relief as the ALJ concluded there was no jurisdiction for his claim under the District of Columbia Workers’ Compensation Act, D.C. Code § 32-1501, et seq. (the Act). The ALJ concluded that although Claimant’s accident occurred within the District of Columbia, Claimant had more substantial contact with Maryland and Claimant’s employment was principally localized in Maryland.

Claimant filed an Application for Review (AFR) and a memorandum of points and authorities in support thereof (Claimant’s Brief) seeking reversal of the CO. Employer filed an opposition to the AFR arguing that the CO is supported by substantial evidence and in accordance with the law and should be affirmed.

On June 7, 2016, the Compensation Review Board (CRB) issued a Decision and Order affirming the CO. *Rhoden v. Megabus*, CRB No. 16-003 (June 7, 2016).

On June 15, 2016, Claimant filed a timely Motion for Reconsideration asking that reconsideration be given in light of the District of Columbia Court of Appeals (DCCA) decision in *Lincoln Hockey, LLC v. DOES*, 997 A.2d 713 (D.C. 2010)(*Jamie Huscroft, Intervenor*).

As of the date of this order, Employer has not filed a response.

Claimant asserts:

The CRB's Decision and Order and the Compensation Order failed to use the proper test for determining where Mr. Rhoden's employment was principally located, and thus reconsideration is necessary for the CRB to apply this proper test. In *Lincoln Hockey, LLC v. DOES*, 997 A.2d 713 (D.C. 2010)(*Huscroft, Intervenor*) the D.C. Court of Appeals' considered whether a hockey player who suffered a career-ending injury while playing for the Capitals' minor league affiliate in Maine was covered by the D.C. Workers' Compensation Act. See *Huscroft*, 997 A.2d at 714-715. The Court of Appeals reviewed the first prong of the "localized principally" defense in *Hughes*, which stated "the place(s) of the employee's business office(s) or facility(ies) at which or from which employee performs the principal service(s) for which he was hired." *Id* at 716. The Court of Appeals noted that the Agency was required to review the type of job that the injured worker performed, and if the reason for the job's existence was focused on a particular jurisdiction, then activities outside of that particular jurisdiction were ancillary to the principal location. *Id* at 717-18. For example, while Mr. Huscroft was playing with the Portland Pirates (the Capitals minor league affiliate in Maine), Mr. Huscroft's activities were ultimately principally focused on improving the Capitals in the District of Columbia. *Id*. The Court of Appeals also recalled the case of *Pro-Football, Inc. v. DOES*, 588 A.2d 275 (D.C. 1991) *Stuart Anderson, lead intervenor*(*Anderson*) in which the Court ruled that while the players for the D.C. Area NFL franchise practiced in the Commonwealth of Virginia, they played professional football in the District of Columbia. *Anderson*, 588 A.2d at 277. Because the principal service for which they were hired was to play professional football, the fact that they spent a great deal of time in Virginia was irrelevant. See *id* at 279.

Claimant' Brief at 2,3.

In essence, Claimant is arguing that the CRB and the ALJ erred in not stopping at prong one of the *Hughes* test and finding that the place where Claimant performed the principal service for which he was hired was Union Station and therefore jurisdiction rests in D.C. See *Hughes v DOES*, 498 A.2d 567 (D.C. 1985). Claimant provides no rationale to support his comparison of a person hired to drive a bus, as Claimant concedes, "along the eastern seaboard" with a person who was hired to play professional hockey as part of a team and as the Court described in *Huscroft* "whose employment relationship had contacts more substantial here than in any other place", citing *Petrilli v. DOES*, 509 A.2d 629 at 633 (D.C. 1986). There is no question in the Panel's view that the principal service that the claimant was hired to perform was driving a bus

and since there exists no place or facility where Claimant regularly performed the principal service of driving a bus, unlike the Washington Capitals arena in *Huscroft*, prong one of the *Hughes* test is not applicable.

Claimant's request for reconsideration is denied.

*So ordered.*