

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
Department of Employment Services

MURIEL BOWSER  
MAYOR



DEBORAH A. CARROLL  
DIRECTOR

**COMPENSATION REVIEW BOARD**

**CRB No. 16-119**

**KENNETH GOODMAN,  
Claimant-Petitioner,**

v.

**WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY,  
Self-Insured Employer-Respondent.**

Appeal from an August 3, 2016 Compensation Order  
by Administrative Law Judge Gregory P. Lambert  
AHD No. 16-180, OWC No. 731314

DEPT. OF EMPLOYMENT  
SERVICES  
COMPENSATION REVIEW  
BOARD  
2016 OCT 13 PM 2 41

(October 13, 2016)

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

**ORDER DISMISSING APPLICATION FOR REVIEW**

On September 7, 2016, Kenneth Goodman (“Claimant”) filed an Application for Review (“AFR”) of an August 3, 2016 Compensation Order issued by an Administrative Law Judge in the Administrative Hearings Division.

Washington Metropolitan Area Transit Authority (“Employer”) filed “Employer’s Motion to Dismiss Claimant’s Application for Review and in the Alternative, Motion for Extension of Time to File Opposition” on September 27, 2016. Employer’s motion stated that the filing of

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<sup>1</sup> 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.

Claimant's AFR was untimely as because it was not filed within 30 days of the August 3, 2016 Compensation Order.

On September 28, 2016, the CRB issued an Order directing the Claimant to respond to Employer's September 27, 2016 Motion to Dismiss on or before October 7, 2016. To date, Claimant has failed to file any response to the CRB's September 28, 2016 Order.

D.C. Code § 1-623. 28 (a) requires that an AFR 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 attached to the August 3, 2016 Compensation Order shows that the Compensation Order was served on counsel for the parties on August 3, 2016. Claimant had 30 days from August 3, 2016 to file his Application for Review. Thirty calendar days after August 3, 2016 was September 2, 2016. Therefore, Claimant had until the close of business on Friday, September 2, 2016 to file his appeal.

7 DCMR § 257.1 provides that "filings ... shall be deemed effective upon actual receipt ...". Here, actual receipt of Claimant's AFR was on September 7, 2016, five days late.

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.<sup>2</sup>

Claimant's Application for Review was not filed within the applicable time and it is DISMISSED.

*So ordered.*

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<sup>2</sup> 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.