

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

Department of Employment Services

VINCENT C. GRAY  
MAYOR



LISA MARÍA MALLORY  
DIRECTOR

**COMPENSATION REVIEW BOARD**

**CRB No. 11-066(R)**

**CAROL MIDDLEDORF-KELLY,  
Claimant–Petitioner,**

v.

**WASHINGTON HOSPITAL CENTER,  
Self-Insured Employer.**

Upon Remand from the District of Columbia Court of Appeals,  
DCCA No. 111-AA-1417 (September 26, 2013)

Richard W. Galiher, Esquire for the Claimant  
William S. Sands, Jr., Esquire for the Self-Insured Employer

**REMAND ORDER**

On September 26, 2013, the District of Columbia Court of Appeals issued an Opinion that affirmed in part and reversed in part the Compensation Review Board's October 4, 2011, Decision and Order in *Middledorf-Kelly v. Washington Hospital Center*, CRB No. 11-066, AHD No. 96-321E, OWC No. 261445 (October 4, 2011).

The District of Columbia Court of Appeals concluded:

For the foregoing reasons, we remand this case to the CRB again, instructing it to further remand again to the ALJ for a recalculation of petitioner's AWW. It appears that under the analysis above (which requires inclusion in the calculation of one of the accrued leave weeks with corresponding payment, and exclusion of the other accrued leave week and corresponding payment), the ALJ will arrive at a middle ground figure: not \$497.46 (the amount the Hospital advocates, which reflects inclusion of the two accrued leave weeks and payments); not \$590.19 (the amount petitioner advocates, which reflects exclusion of both accrued leave weeks and payments); but an amount somewhere in between the two. We leave the precise calculations to the ALJ.

The CRB's decision is affirmed in part and reversed in part, and the matter is

remanded for a proper calculation of petitioner's AWW.

*Middledorf-Kelly v. Dep't of Employment Services and Washington Hospital Center, Intervenor*, No. 11-AA-1417 (D.C. Sept. 26, 2013) at 30-31.

Therefore, consistent with the Opinion of from the District of Columbia Court of Appeals, this case is REMANDED to an Administrative Law Judge in the Hearings and Adjudication section of the District of Columbia Department of Employment Services.

IT IS SO ORDERED.

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LAWRENCE D. TARR  
*Chief Administrative Appeals Judge*

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November 5, 2013  
DATE