

In the Matter of BERTHA GLASKER, Claimant v. OLSTEN KIMBERLY QUALITY
CARE, and CRAWFORD & COMPANY, Employer/Carrier

Dir. Dkt. No. 98-66 H&AS No. 97-359 OWC No. 500511

DISTRICT OF COLUMBIA, DEPARTMENT OF EMPLOYMENT SERVICES,
COMPENSATION REVIEW BOARD

December 17, 1998

COUNSEL: Michael V. Kowalski, Esquire for the Claimant; Robert C. Baker, Jr., Esquire for the Employer/Carrier

PANEL: Appeal from the Compensation Order of Amelia G. Govan, Hearing Examiner

DECISION OF THE DIRECTOR

I. Preliminary Statement

This proceeding arises out of a claim for workers' compensation benefits filed pursuant to the provisions of the District of Columbia Workers' Compensation Act of 1979, as amended, D.C. Law, 3-77, D.C. Code, § 36-301 et seq. (1981 Edition, as amended) (hereinafter, the "Act").

The above captioned case is before the Director for review of a July 13, 1998 Compensation Order which denied claimant's claim on the basis that she was not in the course of her employment at the time of her injury.

II. Background

The claimant worked as a home care nurse for the employer. On January 12, 1994, claimant fell, while riding on a Metrobus, and injured her back, abdomen, and thighs. She was on her way to visit her first home patient of the day when she was injured. The claimant did not receive travel expenses for traveling to and from her home to the patients' homes.

III. Discussion

The Director of the Department of [*2] Employment Services (hereinafter, "Director") must affirm the Compensation Order under review if the findings of fact contained therein are supported by substantial evidence in the record considered as a whole and if the law has been properly applied. See D.C. Code § 36-322; 7 D.C.M.R. Employment Benefits § 230. Substantial evidence is such relevant evidence as a reasonable mind might find as adequate to support a conclusion. *George Hyman Construction Company v. Department of Employment Services*, 498 A.2d 563, 566 (1985).

In her Application for Review, the claimant argues that the Hearing Examiner was in error for finding that her injury did not arise out of or occur in the course of her employment.

After a careful review of the record, the Director rejects claimant's argument. In order for a claimant to receive workers' compensation benefits, an injury must have both arisen out of employment and occurred within the course of the employment. *Grayson v. Department of Employment Services*, 516 A.2d 909 (D.C.1986). The Director notes that the general rule is that injuries that occur while en route to or from work are not [*3] considered to have happened in the course of an employee's employment. Id.

The Director notes also that since claimant was injured on her way to work and since she was unpaid for her travel time, claimant's injury was not in the course of her employment. As a result, the claimant is not entitled to disability benefits.

IV. Disposition

Accordingly, for the reasons stated above, the Compensation Order of July 13, 1998 is hereby affirmed.

Gregory P. Irish
Director
Date December 17, 1998