

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

**Department of Employment Services**

**MURIEL BOWSER**  
MAYOR



**ODIE DONALD II**  
ACTING DIRECTOR

**COMPENSATION REVIEW BOARD**

**CRB No. 17-010**

**FREDDIE JONES,**  
**Claimant-Petitioner,**

**v.**

**DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS,**  
**Employer-Respondent.**

Appeal from a November 22, 2016 Compensation Order on Remand  
by Administrative Law Judge Gwenlynn D'Souza  
AHD No. PBL 09-028C, DCP No. 0468-WC-84-0500015

DEPT. OF EMPLOYMENT  
SERVICES  
COMPENSATION REVIEW  
BOARD  
2017 APR 12 AM 9 49

(Decided April 12, 2017)

Harold L. Levi for Claimant  
Frank Mc Dougald for Employer

Before JEFFREY P. RUSSELL, HEATHER C. LESLIE, and GENNET PURCELL, *Administrative Appeals Judges.*

JEFFREY P. RUSSELL for the Compensation Review Board.

**DECISION AND ORDER**

**FACTS OF RECORD AND PROCEDURAL HISTORY**

On November 3, 2016, the Compensation Review Board ("CRB") issued a Decision and Partial Remand Order ("DPRO"), in which a Compensation Order issued by an administrative law judge ("ALJ") in the Administrative Hearings Division ("AHD") of the Office of Hearings and Adjudications in the District of Columbia Department of Employment Services was affirmed with one exception. The CRB determined that the entry of an award of compound interest for back benefits was in error, and remanded the matter to the ALJ and AHD for one purpose and one purpose only, the entry of an award for simple interest instead of compound interest on back benefits due.

On November 22, 2016 the ALJ issued a Compensation Order on Remand ("COR") in which the ALJ made the following determination and entered the following order:

It is **ORDERED** that Claimant's claim for relief be and hereby, [sic] is **GRANTED** in part and **DENIED** in part. Claimant is hereby awarded 2% simple interest. Claimant is not awarded any amount as an underpayment of wage loss benefits.

COR at 3.

On February 9, 2017, Claimant filed an Application for Expedited Review of Compensation Order on Remand and a Memorandum in Support of Application for Expedited Review of Compensation Order on Remand ("Claimant's Brief"), asserting that in the COR the ALJ exceeded the mandate of the CRB and entered an order on an issue, the amount if any of back due benefits, that was not before her.

Employer has not filed any response to this appeal.

Because the ALJ exceeded the mandate of the CRB as set forth in the DPRO, the portion of the Order reading "Claimant is not awarded any amount as an underpayment of wage loss benefits" is vacated.

#### ANALYSIS

Because the issue before us is a simple one, we need not recount the detailed factual and procedural background of this case. Suffice it to say that in the DPRO the CRB, after affirming several findings and conclusions contained in the CO, made one instruction ordering further action on the part of AHD and the ALJ:

The determination that Claimant is entitled to 2% compound interest on accrued benefits is not in accordance with the law and is **REVERSED**. The matter is **REMANDED** with directions to the ALJ to enter an award using simple interest.

DPRO at 7.

Claimant appeals this order to us. We note that the Application for Review was filed well beyond the 30 day limit for appeals from AHD to the CRB. However, in the Application, Claimant asserts the following:

Freddie Jones ("Petitioner" or "Jones"), by his attorney, respectfully submits this Memorandum in Support of his Application for Expedited Review of a Compensation Order on Remand, dated November 22, 2016 but not served upon the parties until February 1, 2017 (see Certificate of Service attached to Compensation Order on Remand (the "COR") as explained below.

Claimant's Brief at 1.

This assertion is uncontested by Employer who, as stated above, has not opposed or otherwise responded to this appeal.

Further, review of the certificate of service attached to the DPRO confirms that it was not served upon Claimant or his counsel; rather, the ALJ served the DPRO on different counsel and a different claimant in an unrelated case.

Accordingly we deem the Application for Review to be timely.

Further, we agree with Claimant that the ALJ erred, inexplicably, by exceeding the mandate of the CRB's DPRO.

Accordingly, the part of the order in the COR which reads "Claimant is not awarded any amount as an underpayment of wage loss benefits" is not in accordance with the law, inasmuch as the ALJ had no jurisdiction to exceed the subject matter of the sole issue that was remanded to AHD in the DPRO.

The remainder of the CO is not challenged on this appeal.

#### **CONCLUSION AND ORDER**

The ALJ's exceeding the mandate of the remand from the Compensation Review Board was not in accordance with the law, and the portion of the order in the Compensation Order on Remand of November 22, 2016 which reads "Claimant is not awarded any amount as an underpayment of wage loss benefits" is STRICKEN and VACATED.

*So ordered.*