

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Department of Employment Services**  
**Labor Standards Bureau**

**Office of Hearings and Adjudication**  
**COMPENSATION REVIEW BOARD**



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**CRB No. 06-044**

**DAHLIA GORHAM,**

**Claimant–Petitioner,**

**v.**

**WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY,**

**Employer/Carrier–Respondent.**

Appeal from a Compensation Order of  
Administrative Law Judge Terri Thompson Mallett  
OHA/AHD No. 06-102, OWC No. 667691

Alan R. Fawcett, Esquire, for the Petitioner

Donna J. Henderson, Esquire, for the Respondent

Before E. COOPER BROWN, *Chief Administrative Appeals Judge*, JEFFREY P. RUSSELL and SHARMAN J. MONROE, *Administrative Appeals Judges*.

JEFFREY P. RUSSELL, *Administrative Appeals Judge*, for the Compensation Review Panel:

## **DECISION AND ORDER**

### **JURISDICTION**

Jurisdiction is conferred upon the Compensation Review Board pursuant to D.C. Official Code §§ 32-1521.01 and 32-1522 (2004), 7 DCMR § 230, and the Department of Employment Services Director's Directive, Administrative Policy Issuance 05-01 (February 5, 2005).<sup>1</sup>

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<sup>1</sup> Pursuant to Administrative Policy Issuance No. 05-01, dated February 5, 2005, the Director of the Department of Employment Services realigned the Office of Hearings and Adjudication to include, *inter alia*, establishment of the Compensation Review Board (CRB) in implementation of the District of Columbia Fiscal Year 2005 Budget Support Act of 2004, Title J, the District of Columbia Workers' Compensation Administrative Reform and Anti-Fraud Amendment Act of 2004, *codified at* D.C. Official Code § 32-1521.01. In accordance with the Director's Directive, the CRB replaces the Office of the Director in providing administrative appellate review and disposition of workers' and disability compensation claims arising under the District of Columbia Workers' Compensation Act of 1979, as amended, D.C. Code Ann. §§ 32-1501 to 32-1545 (2005), and the District of Columbia Government Comprehensive Merit Personnel Act of 1978, as amended, D.C. Code Ann. §§ 1-623.1 to 1-643.7 (2005), including responsibility for administrative appeals filed prior to October 1, 2004, the effective date of the District of Columbia Workers'

This appeal follows the issuance of a Compensation Order from the Administrative Hearings Division (AHD) of the Office of Hearings and Adjudication (OHA) in the District of Columbia Department of Employment Services (DOES). In that Compensation Order, which followed a formal hearing conducted on March 21, 2006, was filed on April 5, 2006, the Administrative Law Judge (ALJ), upon finding that the claimed injury did not arise out of Petitioner's employment, denied the relief requested by Petitioner. Petitioner now seeks review of that Compensation Order. This case is now before the Compensation Review Board.

#### ANALYSIS

The record has been reviewed and we find that the ALJ's factual findings are supported by substantial evidence on the record as a whole, and are therefore conclusive. *Marriott Int'l. v. Dist. of Columbia Dep't. of Employment Servs.*, 834 A.2d 882 (D.C. 2003); D.C. Workers' Compensation Act of 1979, as amended, D.C. Code Ann. §32-1501 to 32-1545 (2005), at §32-1521.01(d)(2)(A). Indeed, none of the facts as found by the ALJ are challenged on appeal.

Rather, Petitioner asserts that the ALJ misapplied the law in holding that Petitioner, who was injured when she was struck by a motorcycle while on a paid break, away from the employment premises while retrieving a bottle of water purchased for her by a co-worker off the employment premises, had not established that the injury arose out of her employment. The ALJ determined that Petitioner "was not within the boundaries of space created by her employment at the time of her injury and has failed to present a work-related event, activity or requirement to invoke the presumption of compensation". Compensation Order, page 4. She went on to state that Petitioner "failed to provide persuasive evidence that the obligations or conditions of [her] employment exposed her to the risks or danger involved in retrieving water from a co-workers car and that [her] particular circumstances placed her within any of the exceptions which have been recognized by the prevailing authorities". Compensation Order, page 4 – 5. In reaching this conclusion, the ALJ found as fact that Respondent provides a break room and water fountain on the work premises, and that employees such as Petitioner are permitted to bring coolers and lunch containers onto the premises, so long as they are marked and identified as to ownership. Compensation Order, page 2.

The record fully supports the ALJ's thorough, well reasoned decision, in which the ALJ identified and properly applied numerous relevant statutory, decisional and scholarly authorities, and we therefore adopt the reasoning and legal analysis expressed by the ALJ in that decision in affirming the Compensation Order in all respects.

#### CONCLUSION

The Compensation Order is supported by substantial evidence and is in accordance with the law.

**ORDER**

The Compensation Order of April 5, 2006 is hereby AFFIRMED.

FOR THE COMPENSATION REVIEW BOARD:

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JEFFREY P. RUSSELL  
Administrative Appeals Judge

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June 7, 2006  
DATE