

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Department of Employment Services

MURIEL BOWSER
MAYOR



DEBORAH A. CARROLL
DIRECTOR

COMPENSATION REVIEW BOARD

CRB No. 14-063 (R)

RONALD KOHNHORST,
Claimant,
v.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY,
Self-Insured Employer.

On Remand from the from the District of Columbia Court of Appeals
DCCA No. 14-AA-1103 (March 18, 2016)

Appeal from a May 18, 2014 Order Granting Attorney Fees
by Administrative Law Judge Amelia G. Govan
AHD No. 12-516, OWC No. 672562

(Issued March 30, 2016)

LAWRENCE D. TARR, *Chief Administrative Appeals Judge*, for the Compensation Review Board

ORDER ON REMAND

This case is before the Compensation Review Board (“CRB”) on the March 18, 2016 Order issued by the District of Columbia Court of Appeals (“DCCA”). That decision reversed and remanded the Compensation Review Board’s September 4, 2014 Decision and Order that had affirmed an Order Granting Attorney Fees issued on May 8, 2014 by an administrative law judge (“ALJ”).

Claimant’s counsel had submitted two applications to the ALJ for an award of an attorney fee, each of which requested a different fee based on a different amount of hours worked. The first application asserted counsel spent 50.25 hours. The second application stated counsel worked 80.5 hours.

The ALJ issued an Order based on the 80.5 hours. The Order mentioned the inconsistent hours asserted in the two applications but did not discuss the inconsistency. Employer appealed and the CRB affirmed. The CRB held:

While the multiple filings reflecting different time itemizations could be a reason to deny or reduce an award, the ALJ was not persuaded. We affirm the Order Granting Attorney Fees.

DEPT. OF EMPLOYMENT
SERVICES
COMPENSATION REVIEW
BOARD
2016 MAR 30 AM 9 44

On appeal, the DCCA reversed and remanded the CRB's decision affirming the ALJ. The DCCA stated:

The problem this conclusion presents for the court is that it leaves us to conjecture why the ALJ was not "persuaded" that the markedly differing statements of hours raised no question regarding the 80.5 figure. Indeed, from the ALJ's Order it is not apparent that the ALJ even thought it necessary to come to grips with the difference in hours claimed.

* * *

But, in our judgment, the inconsistencies that the Board itself recognized had potential bearing on counsel's entitlement to an award or an award in the amount requested, must be addressed by the ALJ before either review tribunal can be fairly satisfied that the fee award was a proper exercise of the ALJ's discretion

Therefore, this case is remanded to the Administrative Hearings Division for a new decision that is consistent with the DCCA's remand instructions.¹

So ordered.

¹ We note that the DCCA also stated in a footnote to its Order "We are confident that WMATA will have full opportunity to respond to any supplemental submission (Claimant's counsel) makes concerning the fee award."