

acknowledged that while the employing establishment did not own the parking garage where the injury occurred, the employing establishment had contracted for its use and paid its employees' parking expenses. Although anyone with a parking contract was permitted to park in the garage, it was not open or accessible to the general public and the employing establishment's employees had to swipe their badges to gain access to the garage, have a hang tag displayed in order to park, and were required to park in a certain area of the garage. The Director concluded that as, under the facts and circumstances of this case, appellant established that he sustained an injury in the performance of duty on July 4, 2012. The Director stated that, on remand, OWCP will develop the claim to determine the nature and extent of appellant's employment-related medical condition and any related disability claimed by appellant.

The Clerk of the Board served appellant with a copy of the Director's motion to remand. By letter dated September 17, 2013, appellant, through his attorney of record, agreed with the Director's motion to remand.

The Board has duly considered the matter and concludes that, as the Director has acknowledged that OWCP incorrectly determined that appellant was not in the performance of duty on July 4, 2012 when he was injured and on remand OWCP will issue a *de novo* decision following any necessary further development on the nature and extent of appellant's employment-related medical condition and any related disability claimed by appellant, the Director's motion to remand should be granted. Accordingly,

IT IS HEREBY ORDERED THAT the motion to remand filed by the Director of Office of Workers Compensation Programs is granted. The decision of OWCP dated February 27, 2013 is set aside and the case remanded for further proceedings consistent with this order of the Board.

Issued: January 24, 2014
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board