

## Rose, Jeffrey

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### [TIME-LOSS COMPENSATION \(RCW 51.32.090\)](#)

#### Wages (RCW 51.08.178) - Compensation

The cost of a prisoner's room and board does not constitute "wages" for purposes of computing time-loss compensation. ...***In re Jeffrey Rose*, BIA Dec., 69 983 (1986)**  
[*Editor's Note: Affirmed, Rose v. Department of Labor & Indus.*, 57 Wn. App. 751 (1990) review denied 115 Wn.2d 1010 (1990).]

Scroll down for order.

**BEFORE THE BOARD OF INDUSTRIAL INSURANCE APPEALS  
STATE OF WASHINGTON**

1     **IN RE: JEFFREY ROSE**                             )     **DOCKET NO. 69,983**  
2   )  
3     **CLAIM NO. J-300594**                             )     **DECISION AND ORDER**  
4

5 APPEARANCES:

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7         Claimant, Jeffrey Rose, by  
8         John W. Hayden, Jr.

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10        Employer, Department of Natural Resources, by  
11        The Attorney General, per  
12        Victoria Sheldon and Robert Kl. Costello, Assistants

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14        Department of Labor and Industries, by  
15        The Attorney General, per  
16        S. Frederick Feller, Assistant  
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18        This is an appeal filed by the claimant on March 6, 1985 from an order of the Department of  
19        Labor and Industries dated January 23, 1985 affirming prior orders which paid time loss compensation  
20        beginning June 25, 1984 and thereafter, at the minimum statutory rate based upon wages of \$1.00 per  
21        day at the time of injury. **AFFIRMED.**  
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24   )     **DECISION**

25        Pursuant to RCW 51.52.104 and RCW 51.52.106, this matter is before the Board for review  
26        and decision on timely Petitions for Review filed by the claimant and the employer to a Proposed  
27        Decision and Order issued on December 12, 1985 in which the orders of the Department were  
28        reversed, and this claim remanded to the Department of Labor and Industries with instructions to pay  
29        the claimant time loss compensation upon a wage base including \$44.49 per day, cost of  
30        maintenance, as well as actual wages paid, but with no further adjustment.  
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33        The question for decision is whether the cost of board, housing, fuel and other maintenance,  
34        pegged herein by stipulation of the parties at \$44.49 per day, "received" by the claimant, Jeffrey Rose,  
35        while a prisoner at the Cedar Creek Honor Camp, constituted "wages" for purposes of computing Mr.  
36        Rose's time loss compensation.  
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39        RCW 51.08.178 provides in material part:

40                     "The term "wages" shall include the reasonable value of board, housing,  
41                     fuel or other consideration of like nature received from the employer . . ."  
42                     (emphasis supplied)  
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1 The stipulated amount of \$44.49 per day is the per capita cost of maintaining an inmate at the Cedar  
2 Creek Honor Camp. This amount in no way represents "consideration" received by Mr. Rose for his  
3 labor, and should therefore not be considered in computing his time loss compensation. The "room  
4 and board" received by the claimant was merely an incident to his confinement, not consideration for  
5 his labor. In accord, see Larson, Workmen's Compensation Law, Volume IC, Section 47.31 (a).  
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8 All factual matters having been stipulated to by the parties, no formal findings will be entered.  
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10 **CONCLUSIONS OF LAW**

- 11 1. The Board of Industrial Insurance Appeals has jurisdiction of the parties  
12 and subject matter of this appeal.  
13  
14 2. The value of board, housing, fuel and other maintenance, received by a  
15 prisoner while in custodia legis does not constitute "wages" within the  
16 meaning of that term as prescribed by RCW 51.08.178, and is therefore  
17 not to be considered in the computation of time loss compensation.  
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19 3. The computation by the Department of Labor and Industries of the  
20 claimant's time loss compensation at the statutory minimum rate, based  
21 on wages paid of \$1.00 per day is correct and should be affirmed.  
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23 It is so ORDERED.  
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25 Dated this 2nd day of July, 1986.  
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27 BOARD OF INDUSTRIAL INSURANCE APPEALS  
28

29  
30 /s/  
31 \_\_\_\_\_  
32 GARY B. WIGGS, Chairperson  
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35 /s/  
36 \_\_\_\_\_  
37 FRANK E. FENNERTY, JR. Member  
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40 /s/  
41 \_\_\_\_\_  
42 PHILLIP T. BORK Member  
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