

JOSEPH V. LADNER)	
)	
Claimant-Respondent)	
)	
v.)	
)	
INGALLS SHIPBUILDING,)	
INCORPORATED)	DATE ISSUED: _____
)	
Self-Insured)	
Employer-Petitioner)	DECISION and ORDER

Appeal of the Supplemental Decision and Order Awarding Attorney Fees of Richard D. Mills, Administrative Law Judge, United States Department of Labor.

Rebecca J. Ainsworth (Maples and Lomax, P.A.), Pascagoula, Mississippi, for claimant.

Traci M. Castille (Franke, Rainey & Salloum), Gulfport, Mississippi, for self-insured employer.

Before: HALL, Chief Administrative Appeals Judge, SMITH and DOLDER, Administrative Appeals Judges.

PER CURIAM:

Employer appeals the Supplemental Decision and Order Awarding Attorney Fees (89-LHC-1712) of Administrative Law Judge Richard D. Mills rendered on a claim filed pursuant to the provisions of the Longshore and Harbor Workers' Compensation Act, as amended, 33 U.S.C. §901 *et seq.* (the Act). The amount of an attorney's fee award is discretionary and may be set aside only if the challenging party shows it to be arbitrary, capricious, an abuse of discretion, or not in accordance with law. *See, e.g., Muscella v. Sun Shipbuilding & Dry Dock Co.*, 12 BRBS 272 (1980).

Claimant's counsel sought an attorney's fee of \$3,718.75, representing 29.75 hours of services at \$125 per hour, and \$29 in expenses, for work performed before the administrative law judge in connection with claimant's hearing loss claim. Employer filed objections to the fee. In a Supplemental Decision and Order, the administrative law judge reduced the number of hours sought in the fee petition by 8.5, reduced the hourly rate sought to \$110, and awarded claimant's counsel an attorney's fee of \$2,337.50, plus the requested expenses.

On appeal, employer challenges the administrative law judge's fee award, incorporating by reference the objections it made below into its appellate brief. Claimant responds, urging affirmance of the fee award.

Employer initially contends that the fee awarded is excessive, maintaining that the case was routine and not complex. Employer also argues that the fee award is not reasonably commensurate with the amount of benefits awarded claimant. The administrative law judge considered the routine and uncomplicated nature of the instant case in reducing counsel's hourly rate from \$125 to \$110. Additionally, pursuant to employer's objection in this regard, the administrative law judge specifically considered the necessity of the number of hours sought by counsel and thereafter reduced the number of hours sought by 8.5 hours, a reduction of approximately 28 percent.¹ We, therefore, reject employer's contention that the awarded fee must be further reduced on this criterion because employer has not satisfied its burden of showing that the administrative law judge abused his discretion in this regard. See *Ross v. Ingalls Shipbuilding, Inc.*, 29 BRBS 42 (1995); see generally *Snowden v. Ingalls Shipbuilding, Inc.*, 25 BRBS 245 (1991)(Brown, J., dissenting on other grounds), *aff'd on recon. en banc*, 25 BRBS 346 (1992)(Brown, J., dissenting on other grounds).

We next reject employer's objections to the number of hours awarded by the administrative law judge, as it has not shown that the administrative law judge abused his discretion in this regard. See *Ross*, 29 BRBS at 42; *Maddon v. Western Asbestos Co.*, 23 BRBS 55 (1989); *Cabral v. General Dynamics Corp.*, 13 BRBS 97 (1981). Employer's specific objection to counsel's method of billing in minimum increments of one-quarter and one-half hour also is rejected, as the administrative law judge considered this objection, and his award conforms to the criteria set forth in the decisions of the United States Court of Appeals for the Fifth Circuit in *Ingalls Shipbuilding, Inc. v. Director, OWCP [Fairley]*, No. 89-4459 (5th Cir. July 25, 1990)(unpublished) and *Ingalls Shipbuilding, Inc. v. Director, OWCP [Biggs]*, No. 94-40066 (5th Cir. Jan 12, 1995)(unpublished).

Employer's contentions which were not raised below will not be addressed for the first time on appeal. See *Bullock v. Ingalls Shipbuilding, Inc.*, 27 BRBS 90 (1993)(*en banc*)(Brown and McGranery, JJ., concurring and dissenting), *modified on other grounds on recon. en banc*, 28 BRBS 102 (1994), *aff'd mem. sub nom. Ingalls Shipbuilding, Inc. v. Director, OWCP [Biggs]*, 46 F.3d 66 (5th Cir. 1995); *Clophus v. Amoco Production Co.*, 21 BRBS 261 (1988).

¹In rejecting employer's objection, the administrative law judge specifically rejected employer's contention that the fee should be directly proportional to the amount of compensation awarded to claimant.

Accordingly, the administrative law judge's Supplemental Decision and Order Awarding Attorney Fees is affirmed.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

NANCY S. DOLDER
Administrative Appeals Judge