

BRB No. 06-0975

|                              |   |                         |
|------------------------------|---|-------------------------|
| P.H.                         | ) |                         |
|                              | ) |                         |
| Claimant                     | ) |                         |
|                              | ) |                         |
| v.                           | ) |                         |
|                              | ) |                         |
| NEWPORT NEWS SHIPBUILDING    | ) | DATE ISSUED: 11/16/2007 |
| AND DRY DOCK COMPANY         | ) |                         |
|                              | ) |                         |
| Self-Insured                 | ) |                         |
| Employer-Petitioner          | ) |                         |
|                              | ) |                         |
| DIRECTOR, OFFICE OF WORKERS' | ) |                         |
| COMPENSATION PROGRAMS,       | ) |                         |
| UNITED STATES DEPARTMENT OF  | ) |                         |
| LABOR                        | ) |                         |
|                              | ) |                         |
| Respondent                   | ) | ORDER on MOTION         |
|                              | ) | FOR RECONSIDERATION     |

The Director, Office of Workers' Compensation Programs (the Director), has filed a timely motion for reconsideration of the Board's decision in this case, *P.H. v. Newport News Shipbuilding & Dry Dock Co.*, BRB No. 06-0975 (Aug. 21, 2007). 33 U.S.C. §921(b)(5); 20 C.F.R. §802.407. The Director does not challenge any aspect of the Board's decision; rather, he requests that the Board remand the case to the administrative law judge for entry of an order directing the Special Fund to pay compensation in this case. 20 C.F.R. §802.404. Employer responds, asserting that remand is unnecessary, as the administrative law judge's Decision and Order on Remand (Oct. 27, 2004) in conjunction with the Board's Decision and Order (Aug. 21, 2007) are sufficient to order the Special Fund to pay benefits. We agree with employer. Consequently, we modify the Board's August 21, 2007 Decision and Order to reflect the following concluding paragraph:

Accordingly, the administrative law judge's Decision and Order on Second Remand denying Section 8(f) relief is reversed. Employer shall pay 104 weeks of permanent partial disability benefits from March 18, 2000, in accordance with the administrative law judge's compensation order dated October 27, 2004. Thereafter, employer is entitled to relief from continuing

compensation liability pursuant to Section 8(f) of the Act, and the Special Fund shall commence paying claimant's permanent partial disability benefits. The Special Fund also must reimburse employer for any compensation payments it made in excess of its liability under Section 8(f).

Accordingly, the motion for reconsideration is granted in part, and the Board's decision in this case is modified consistent with this opinion. 20 C.F.R. §802.409. In all other respects, the Board's decision is affirmed.

SO ORDERED.

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NANCY S. DOLDER, Chief  
Administrative Appeals Judge

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ROY P. SMITH  
Administrative Appeals Judge

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JUDITH S. BOGGS  
Administrative Appeals Judge