

BRB No. 04-0511 BLA
Case No. 98-BLA-0678

BILL HOLBROOK)	
)	
Claimant-Respondent)	DATE ISSUED: <u>June 28, 2004</u>
)	
v.)	
)	
GOLDEN OAK MINING COMPANY)	
)	
and)	
)	
UNDERWRITERS SAFETY AND CLAIMS)	
)	
Employer/Carrier-)	
Petitioner)	
)	
DIRECTOR, OFFICE OF WORKERS')	
COMPENSATION PROGRAMS, UNITED)	
STATES DEPARTMENT OF LABOR)	
)	
Party-in-Interest)	ORDER

By letter dated March 22, 2004, the Board acknowledged receipt of employer's Notice of Appeal of the administrative law judge's Decision and Order on Remand awarding benefits dated February 27, 2004, and filed in the Office of the District Director on March 3, 2004.

On May 27, 2004, the Director filed a Motion to Dismiss the Employer's appeal in the captioned case. In support of his motion, the Director states that he filed a motion for reconsideration of the administrative law judge's decision. Section 802.206(f) of the Board's Rules of Practice and Procedure states that if a timely motion for reconsideration of a decision or order of an administrative law judge or deputy commissioner is filed, any appeal to the Board, whether filed prior to or subsequent to the filing of a timely motion for reconsideration shall be dismissed as premature. 20 C.F.R. §802.206(f). Accordingly, the Board dismisses this appeal as premature.

In light of the above, claimant's motions to dismiss employer's appeal as untimely filed and

request for an extension of time to file response brief, dated June 2, 2004, are moot.

NANCY S. DOLDER, Chief
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge

BETTY JEAN HALL
Administrative Appeals Judge