

BRB No. 05-442 BLA
Case No. 02-BLA-0140

ERNEST E. BALSLEY)	
)	
Claimant-Respondent)	DATE ISSUED: 03/09/2005
)	
v.)	
)	
PEABODY COAL COMPANY)	
)	
and)	
)	
OLD REPUBLIC INSURANCE COMPANY)	
)	
Employer/Carrier-)	
Petitioner)	
)	
DIRECTOR, OFFICE OF WORKERS')	
COMPENSATION PROGRAMS, UNITED)	
STATES DEPARTMENT OF LABOR)	
)	
Party-in-Interest)	ORDER

By letter dated February 22, 2005, the Board acknowledged employer's appeal of the administrative law judge's Decision and Order – Award of Benefits issued January 20, 2005.

On March 2, 2005, claimant filed a Motion to Hold Appeal of Employer in Abeyance or Alternatively, to Dismiss Appeal. 20 C.F.R. §802.206(f). Claimant states that he filed a motion for reconsideration with the Office of Administrative Law Judges on February 18, 2005.

Section 802.206(f) of the Board's Rules of Practice and Procedure, 20 C.F.R. §802.206(f), provides that if a timely motion for reconsideration of a decision or order of an administrative law judge is filed, any appeal to the Board, whether filed prior to or subsequent to the filing of the timely motion for reconsideration, shall be dismissed as premature. 20 C.F.R. §802.206(f).

Accordingly, the Board grants claimant's motion and dismisses employer's appeal as premature. 20 C.F.R. §802.206(f). Any party remaining aggrieved after the administrative law judge's decision and order on reconsideration is filed must file a Notice of Appeal with the Board within thirty (30) days from the date upon which a decision or order is filed. 20 C.F.R. §802.205(a).

NANCY S. DOLDER, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge