

JONATHAN R. ALEGRE)
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Claimant-Respondent)
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v.)
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CHESAPEAKE KINDER MORGAN,) DATE ISSUED: 03/28/2006
INCORPORATED)
)
and)
)
ACE, USA)
)
Employer/Carrier-)
Petitioners) ORDER

On January 24, 2005, employer appealed the Attorney Fee Order (Case No. 4-36483) of District Director Emma Riley 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). In her Attorney Fee Order dated January 5, 2005, the district director, after finding that employer had filed no response or objection to the fee requested by claimant's counsel, awarded counsel her requested fee of \$9,000. Employer thereafter filed a motion for reconsideration of the fee award with the district director, averring that it had in fact timely filed objections to claimant's counsel's fee request. Employer also filed this Notice of Appeal with the Board, attaching its Petition for Review and brief.¹ On February 14, 2005, claimant's counsel filed an amended fee petition with the district director, withdrawing his previous "load star" request for \$3,000 and seeking a fee in the amount of \$6,245 for services rendered to claimant. In a Supplemental Decision and Order Granting Carrier's Motion for Reconsideration dated

¹ By Order dated August 12, 2005, the Board dismissed this appeal as abandoned. 20 C.F.R. §402(a). As employer's Petition for Review and brief had accompanied its Notice of Appeal, the Board reinstated employer's appeal on December 2, 2005. There is no indication that either party advised the Board of the motion for reconsideration or its resolution.

February 17, 2005, the district director addressed and rejected each of employer's October 15, 2004 objections to claimant's counsel's fee, and awarded claimant's counsel a fee in the amount of \$6,245. Employer did not file a new notice of appeal or brief following this decision.

Employer's arguments on appeal challenge only the fee awarded to claimant's counsel in the district director's January 5, 2005, Attorney Fee Order. Specifically, employer avers that the district director erred in refusing to consider the objections to claimant's counsel's fee request which it filed with the district director on October 15, 2004, and that the district director exceeded her authority when she awarded claimant's counsel an additional \$3,000 for the "optimum results" obtained by counsel on behalf of claimant. In her order on reconsideration, the district director granted the specific relief employer requests, as she acknowledged receipt of employer's objections, considered each of them and vacated her prior award of an additional \$3,000 to claimant's counsel. Moreover, employer's appeal should have been dismissed pursuant to Section 802.206(f) of the Board's regulation, 20 C.F.R. §802.206(f). This regulation provides that where a party files a timely motion for reconsideration of an Order, any appeal must be dismissed and a new appeal filed upon issuance of a decision on reconsideration. *See Aetna Casualty & Surety Co. v. Director, OWCP*, 97 F.3d 815, 30 BRBS 81(CRT) (5th Cir. 1996). Employer in this case did not file a new appeal of the district director's order. There is therefore no issue pending for resolution by the Board.

Accordingly, employer's appeal of the district director attorney's fee award is dismissed.

SO ORDERED.

ROY P. SMITH
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge

JUDITH S. BOGGS
Administrative Appeals Judge