

BRB No. 14-0339  
OWCP No. 07-146789

RANDOLPH D. BESSARD )  
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 Claimant-Petitioner )  
 )  
 v. )  
 )  
 C & D PRODUCTION SPECIALIST ) DATE ISSUED: Oct. 22, 2014  
 COMPANY )  
 )  
 and )  
 )  
 LOUISIANA WORKERS' )  
 COMPENSATION CORPORATION )  
 )  
 Employer/Carrier- )  
 Respondents ) ORDER

The Board acknowledges claimant's timely notice of appeal, dated June 25, 2014, of District Director David A. Duhon's letter dated May 29, 2014. 33 U.S.C. §921(b); 20 C.F.R. §§802.205, 802.210. Claimant's appeal is assigned the Board's docket number 14-0339. All correspondence relating to this appeal must bear this number.

In his letter, the district director acknowledged receipt of counsel's application for an attorney's fee as a lien against claimant's benefits. The district director informed counsel that he could not obtain fees previously denied by the district director and the administrative law judge as a lien against claimant's benefits, as the denials of those fees had not been appealed and the orders were final. Additionally, the district director advised claimant and employer to respond to counsel's request for a fee of \$1,378.10 for services provided since the prior fee awards were entered. 33 U.S.C. §928(c). He took no other action with regard to the new fee request. Claimant's counsel appeals the district director's statement that he is not entitled to have the previously-denied attorney's fee payable by claimant through a lien on his benefits.

Initially, we note that the district director's letter is not an "order." 33 U.S.C. §919(c); 20 C.F.R. §702.392. Even were we to consider this letter as an "order," this appeal is interlocutory because the district director did not act on counsel's petition for an additional attorney's fee of \$1,378.10. Generally, for a non-final order to be appealable, it must: conclusively determine the disputed question; resolve an important issue which is

completely separate from the merits of the action; and be effectively unreviewable on appeal from a final judgment. *Gulfstream Aerospace Corp. v. Mayacamas Corp.*, 485 U.S. 271 (1988) (“collateral order doctrine”); *Newton v. P & O Ports Louisiana, Inc.*, 38 BRBS 23 (2004). Where the order appealed from does not satisfy all these criteria, the Board, generally, will decline to decide an interlocutory appeal. *See, e.g., Butler v. Ingalls Shipbuilding, Inc.*, 28 BRBS 114 (1994); *c.f. Pensado v. L-3 Communications Corp.*, 48 BRBS 37 (2014) (discovery stalemate where administrative law judge ordered claimant to bear costs of employer’s examinations); *Baroumes v. Eagle Marine Services*, 23 BRBS 80 (1989) (attorney disqualification at issue); *Niazy v. The Capital Hilton Hotel*, 19 BRBS 266 (1987) (due process violation alleged).

The letter at issue does not meet the criteria of the collateral order doctrine, and the Board need not guide the administrative process in this case. The district director’s letter acknowledged counsel’s fee petition dated May 21, 2014, and ordered that responses thereto be filed. Until such time as the district director acts on the petition for an additional fee of \$1,378.10, the proceedings before the district director will not be final. Therefore, we decline to address counsel’s contentions at this time, as, otherwise, the potential for piecemeal review of the attorney’s fee issues in this case exists. Once the district director issues a final order addressing the fee issues presented to him, counsel may file an appeal of that order; such an appeal may appropriately include an appeal related to the district director’s letter herein. *Mijangos v. Avondale Shipyards, Inc.*, 948 F.2d 941, 25 BRBS 78(CRT) (5th Cir. 1991); *Newton*, 38 BRBS 23 (2004); *Tignor v. Newport News Shipbuilding & Dry Dock Co.*, 29 BRBS 135 (1995). Therefore, we dismiss claimant’s appeal of the district director’s interlocutory “order.”

Accordingly, claimant’s appeal is dismissed.

SO ORDERED.

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BETTY JEAN HALL, Acting Chief  
Administrative Appeals Judge

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REGINA C. McGRANERY  
Administrative Appeals Judge

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JUDITH S. BOGGS  
Administrative Appeals Judge