BRB No. 13-0275

JASON HOLGUIN	)	
	)	
Claimant-Respondent	)	
	)	
v.	)	
	)	
SERVICE EMPLOYEES INTERNATIONAL, INCORPORATED	)	DATE ISSUED: Sept. 23, 2014
	)	
and	)	
	)	
INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA	)	
	)	
Employer/Carrier-Petitioners	)	
	)	
DIMENSIONS INTERNATIONAL	)	
	)	
and	)	
	)	
ACE AMERICAN INSURANCE COMPANY	)	
	)	
Employer/Carrier-Respondents	)	ORDER

Service Employees International, Inc. (SEI) appeals the Order on Remand (2008-LDA-00052; 2008-LDA-00053) of Administrative Law Judge Clement J. Kennington 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*., as extended by the Defense Base Act, 42 U.S.C. §1651 *et seq.* (the Act). We must affirm the administrative law judge's findings of fact and conclusions of law if they are supported by substantial evidence, rational, and in accordance with law. 33 U.S.C. §921(b)(3); *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

This case is before the Board for the second time. In its initial decision, the Board reversed the administrative law judge's finding that Dimensions International is

the responsible employer The Board held that as claimant sustained an aggravating injury on June 23, 2007, while in the employ of SEI, SEI is the responsible employer, pursuant to the aggravation rule, as of that date. The Board remanded the case for the administrative law judge to address any unresolved issues resulting from this holding, such as the calculation of claimant's average weekly wage. *J.H. [Holguin] v. Dimensions Int'l*, BRB No. 08-0689 (Apr. 16, 2009), *recon. denied*, (July 10, 2009). On remand, SEI and claimant stipulated that claimant's average weekly wage is $2,688, and the parties agreed that Dimensions' liability for benefits terminated when claimant began his employment with SEI on June 20, 2007. The administrative law judge issued an order embodying these agreements.

SEI appeals the administrative law judge's decision on remand. In its Petition for Review and Motion for Summary Affirmance, SEI states it does not wish to appeal the substance of the decision on remand but seeks a final order so that it may challenge the Board's prior decision in this case which, it acknowledges, constitutes the law of the case. Dimensions filed a response brief, stating that the Board should apply the law of the case doctrine and decline to review its prior decision.

As the parties correctly acknowledge, the Board's prior decision is the law of the case. Moreover, no exceptions to this doctrine are applicable in this case. *See, e.g., Irby v. Blackwater Security Consulting*, 44 BRBS 17 (2010); *Weber v. S.C. Loveland Co.*, 35 BRBS 75 (2001), *aff'd on recon.*, 35 BRBS 190 (2002). Therefore, we grant SEI's motion for summary affirmance and affirm the administrative law judge's Order on Remand. *See generally Boone v. Newport News Shipbuilding & Dry Dock Co.*, 37 BRBS 1 (2003).

Accordingly, the administrative law judge's Order on Remand is affirmed.

SO ORDERED.

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BETTY JEAN HALL, Acting Chief
Administrative Appeals Judge

_____
REGINA C. McGRANERY
Administrative Appeals Judge

_____
JUDITH S. BOGGS
Administrative Appeals Judge