

BRB Nos. 04-467 BLA
and 04-547 BLA
Case No. 03-BLA-5518

GARY BURCHETT)	
)	
Claimant-Respondent)	DATE ISSUED: 04/16/2004
)	
v.)	
)	
PONTIKI COAL COMPANY)	
)	
Employer-Petitioner)	
)	
DIRECTOR, OFFICE OF WORKERS')	
COMPENSATION UNITED STATES)	
DEPARTMENT OF LABOR)	
)	
Party-in-Interest)	ORDER

By letter dated March 5, 2004, the Board acknowledged receipt of employer's appeal of the administrative law judge's Decision and Order issued February 6, 2004, and assigned the appeal, BRB No. 04-467 BLA.

On March 22, 2004, the Director filed a Motion to Dismiss employer's appeal as premature. 20 C.F.R. §802.206(f). The Director states that he filed a motion for reconsideration with the Office of Administrative Law Judges on February 18, 2004, which was denied on March 16, 2004.

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 the Director's motion and dismisses employer's appeal, BRB No. 04-467 BLA, as premature. 20 C.F.R. §802.206(f).

The Board acknowledges receipt of employer's Notice of Appeal filed on April 1,

2004. Employer appeals the administrative law judge's Decision and Order issued February 6, 2004, and Order Denying Director's Motion to Reconsider issued March 16, 2004. This appeal is assigned the Board's docket number, BRB No. 04-547 BLA. All future correspondence regarding this appeal must bear this number.

Employer must file a Petition for Review and brief and two (2) legible copies within thirty (30) days of receipt of this Order and include service on all parties, and the Solicitor of Labor. 20 C.F.R. §§802.211, 802.216.

It is requested that the District Director forward the official record of the case to the Board upon receipt of this Order. 20 C.F.R. §802.209.

NANCY S. DOLDER, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge