



BRB No. 18-0527 BLA

JERRY MARTIN)	
)	
Claimant-Respondent)	
)	
v.)	
)	
SEXTET MINING CORPORATION)	DATE ISSUED: 01/10/2020
)	
and)	
)	
ARROWPOINT CAPITAL SECURITY)	
INSURANCE COMPANY OF HARTFORD)	
)	
Employer/Carrier-)	
Petitioners)	
)	
DIRECTOR, OFFICE OF WORKERS')	
COMPENSATION PROGRAMS, UNITED)	ORDER on MOTION for
STATES DEPARTMENT OF LABOR)	RECONSIDERATION and
)	AWARD of ATTORNEY
Party-in-Interest)	FEES

Employer has filed a timely motion for reconsideration of the Board’s Decision and Order in *Martin v. Sextet Mining Corp.*, BRB No. 18-0527 BLA (Sept. 27, 2019) (unpub.), affirming the award of benefits. 33 U.S.C. §921(b)(5); 20 C.F.R. §802.407. Claimant opposes employer’s motion.

Employer asserts the Board failed to address its contention that the administrative law judge erred by not resolving the conflict in the evidence concerning claimant’s smoking history. Employer is mistaken, as the Board addressed its contention, stating that any error in the administrative law judge’s failure to make a specific finding regarding the number of years claimant smoked is harmless as he rationally discredited on other grounds the evidence employer offered to rebut the Section 411(c)(4) presumption. *See Martin*,

slip op. at 5 n.6. Therefore, we deny employer's motion for reconsideration. 20 C.F.R. §§801.301(c); 802.407(d); 802.409.

Claimant's counsel has filed a complete, itemized statement requesting an attorney's fee for services performed before the Board in defending claimant's award. 20 C.F.R. §802.203(a). Counsel requests a fee of \$1,232.00 for 6.16 hours of legal services at an hourly rate of \$200. Employer has not filed objections to counsel's fee petition.

Upon review of the fee petition, we find the requested fee to be reasonably commensurate with the necessary services performed in defending the awards of benefits. We thus approve a fee of \$1,232.00, for employer to pay directly to claimant's counsel.¹ 33 U.S.C. §928, as incorporated by 30 U.S.C. §932(a); 20 C.F.R. §802.203.

Accordingly, we deny employer's motion for reconsideration and affirm the Board's decision. Employer is ordered to pay claimant's counsel an attorney's fee of \$1,232.00.

SO ORDERED.

GREG J. BUZZARD
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge

DANIEL T. GRESH
Administrative Appeals Judge

¹ The Board's award in this matter is of no precedential value given that counsel's fee petition is unopposed.