

BRB No. 05-0109 BLA  
Case No. 03-BLA-0289

CAROLYN STEVENS (Surviving Daughter ) of HUBERT STEVENS) ) ) ) Claimant-Petitioner )	DATE ISSUED: <u>November 30, 2004</u>
v. ) ) )	
DIRECTOR, OFFICE WORKERS' ) COMPENSATION PROGRAMS, UNITED ) STATES DEPARTMENT OF LABOR ) ) ) Respondent )	ORDER

By letter dated October 13, 2004, the Board acknowledged claimant's appeal of the administrative law judge's Order of Remand dated September 15, 2004. Claimant's appeal was filed without the assistance of counsel.

By motion dated November 12, 2004, the Director requests that claimant's appeal be dismissed as interlocutory. In support of his motion, the Director states that the administrative law judge issued an order remanding the case for development of additional medical evidence and evidence on whether claimant is a proper party to pursue the claim. Further, the Director states that an order remanding a case for further consideration of an issue is generally not a final order, unless only ministerial action is required of the district director. The Director requests that the Board dismiss claimant's appeal as interlocutory.

Claimant's appeal of the administrative law judge's Order, is interlocutory in nature. Under certain limited circumstances, the Board will consider an interlocutory appeal. The appeal must meet the following three-pronged test. First, the order must conclusively determine the disputed question. Secondly, the order must resolve an important issue which is completely separate from the merits of the case. Finally, the order must be effectively unreviewable on appeal from a final judgment. *See Canada Coal Co. v. Stiltner*, 866 F.2d 153 (6th Cir.1989); *See also Gulfstream Aerospace Corp. v. Mayacamus Corp.*, 485 U.S. 271, 108 S.Ct. 1133 (1988).

Inasmuch as the administrative law judge's Order dated September 15, 2004, does not meet the three-pronged test, the Board dismisses claimant's appeal.

Any party aggrieved by the administrative law judge's decision on the merits of the case must

file a new appeal with the Board within thirty (30) days of the date the administrative law judge's decision on the merits is filed. 20 C.F.R. §802.205.

Service of this Order has been made on all parties, the Solicitor of Labor and the District Director.

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ROY P. SMITH  
Administrative Appeals Judge

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REGINA C. McGRANERY  
Administrative Appeals Judge

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BETTY JEAN HALL  
Administrative Appeals Judge