

BRB No. 04-933
Case No. 03-BLA-6406

KEITH RAY DARAGO) DATE ISSUED: October 13, 2004
)
 Claimant-Respondent)
 v.)
)
 CONSOLIDATION COAL COMPANY)
)
 Employer-Petitioner) ORDER

On September 16, 2004, the Board acknowledged employer's notice of appeal of the administrative law judge's Decision and Order and assigned the appeal, BRB No. 04-933.

Thereafter, on September 27, 2004, counsel for employer notified the Board that on September 15, 2004, the Director filed a timely Motion for Reconsideration of the administrative law judge's decision and order.

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. Accordingly, the Board dismisses employer's appeal as premature.

If any party remains aggrieved after the administrative law judge's decision on

reconsideration, a new appeal must be filed with the Board within thirty (30) days of the date the Order on reconsideration is filed by the administrative law judge. 20 C.F.R. §§802.205, 802.206(d)(e).

ROY P. SMITH
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge

BETTY JEAN HALL
Administrative Appeals Judge