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| BILLY J. COPELAND |) | |
| |) | |
| Claimant-Petitioner |) | |
| |) | |
| v. |) | DATE ISSUED:_____ |
| |) | |
| ROWAN COMPANIES, |) | |
| INCORPORATED |) | |
| |) | |
| and |) | |
| |) | |
| AETNA CASUALTY & SURETY |) | |
| COMPANY |) | |
| |) | |
| Employer/Carrier- |) | |
| Respondents |) | DECISION and ORDER |

Appeal of the Supplemental Decision and Order Awarding Attorney's Fee of James W. Kerr, Jr., Administrative Law Judge, United States Department of Labor.

Stephen M. Vaughan (Mandell & Wright), Houston, Texas, for claimant.

Michael P. Mentz (Hailey, McNamara, Hall, Larmann & Papale), Metairie, Louisiana, for employer/carrier.

BEFORE: BROWN and McGRANERY, Administrative Appeals Judges, and LAWRENCE, Administrative Law Judge.*

PER CURIAM:

Claimant appeals the Supplemental Decision and Order Awarding Attorney's Fee (88-LHC-2469) of Administrative Law Judge James W. Kerr, Jr. 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.* (the Act). The amount of an attorney's fee award is discretionary and may only be set aside if shown to be arbitrary, capricious, an abuse of discretion or not in accordance with the law. *See Roach v. New York Protective Covering Co.*, 16 BRBS 114 (1984); *Muscella v. Sun Shipbuilding & Dry Dock Co.*, 12 BRBS 272 (1980).

*Sitting as a temporary Board member by designation pursuant to the Longshore and Harbor Workers' Compensation Act as amended in 1984, 33 U.S.C. §921(b)(5)(1988).

Claimant sought and was awarded compensation under the Act for injuries to his left leg

sustained on November 13, 1978 while working for employer as a floor hand on an offshore oil rig that was in drydock. Thereafter, claimant's counsel filed a Petition for Approval of Attorney's Fees requesting \$16,891.04 representing 75.5 hours of attorney services performed by Stephen M. Vaughan at \$200 per hour, 3 hours of paralegal services performed by John David Howard at \$75 per hour, plus \$1,566.04 in expenses. Employer contested the hourly rates sought as excessive and suggested an hourly rate of \$75 to \$100 for Mr. Vaughan and \$40 to \$50 per hour for Mr. Howard as reasonable alternatives. Employer did not object to any other aspect of the fee petition. In his Supplemental Decision and Order Awarding Attorney's Fees, the administrative law judge, addressing employer's only objection, reduced the hourly rates sought from \$200 to \$100 for Mr. Vaughn, and from \$75 to \$50 for Mr. Howard. Accordingly, he awarded claimant's counsel a fee of \$7,700 representing 75.5 hours of attorney services at \$100 per hour, and 3 hours of paralegal services at \$50 per hour.

On appeal, claimant contends that the administrative law judge erred by substantially reducing the requested fee without providing a sufficient explanation. Claimant specifically asserts that the \$100 hourly rate awarded to Mr. Vaughan is inadequate as a matter of law for competent and experienced longshore counsel, asserting that even inexperienced defense counsel, not faced with the risk of contingent and delayed payment, receive higher hourly rates. Employer responds, urging that the administrative law judge's fee award be affirmed.

Claimant's assertion that the administrative law judge erred in reducing the hourly rate of Mr. Vaughn to \$100 is rejected. An attorney's fee must be awarded in accordance with Section 28 of the Act, 33 U.S.C. §928, and the applicable regulation, Section 702.132, 20 C.F.R. §702.132, which provides that any attorney's fee approved shall be reasonably commensurate with the necessary work done, the quality of the representation, the complexity of the legal issues involved and the amount of benefits awarded. *See generally Parrott v. Seattle Joint Port Labor Relations Committee of the Pacific Maritime Ass'n*, 22 BRBS 434 (1989).¹ In the present case, after considering the aforementioned regulatory factors and the geographic locality in which the case was tried, the administrative law judge, in accordance with employer's sole objection, reduced the hourly rate requested for Mr. Vaughan from \$200 to \$100. Inasmuch as the \$100 hourly rate awarded is not unreasonable, and claimant's unsupported assertion that a higher hourly rate is warranted is insufficient to prove that the administrative law judge abused his discretion in setting the hourly rate, we affirm this reduction in the hourly rate. *See Maddon v. Western Asbestos Co.*, 23 BRBS 55 (1989); *see Snowden v. Ingalls Shipbuilding, Inc.*, 25 BRBS 245 (1991) (Brown, J., dissenting on other grounds), *aff'd on recon. en banc*, 25 BRBS 346 (1992) (Brown, J., dissenting on other grounds). As claimant has failed to raise any reversible error made by the administrative law judge, we affirm the fee award.

Accordingly, the administrative law judge's Supplemental Decision and Order Awarding Attorney's Fees is affirmed.

SO ORDERED.

¹Claimant's assertion that only the work performed is relevant to the determination of the hourly rate is therefore erroneous.

JAMES F. BROWN
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge

LEONARD N. LAWRENCE
Administrative Law Judge