

B.J.)
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 Claimant-Petitioner)
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 v.)
)
 VIRGINIA INTERNATIONAL) DATE ISSUED: 08/24/2007
 TERMINALS)
)
 and)
)
 ABERCROMBIE, SIMMONS & GILLETTE)
)
 Employer/Carrier-)
 Respondents)
) ORDER

By motion filed May 15, 2007, claimant notified the Board that he has filed a Section 22, 33 U.S.C. §922, motion for modification with the administrative law judge and requests that the Board remand this case to the Office of Administrative Law Judges for modification proceedings. Employer objects to claimant's motion, contending that the Board should either issue a decision on the merits or dismiss claimant's appeal with prejudice.

Section 802.301(c), 20 C.F.R. §802.301(c), states that if a party has filed a motion for modification, his appeal will be dismissed without prejudice. Thus, employer's objection to claimant's motion is without basis in law. We grant claimant's motion, dismiss his appeal without prejudice, and remand this case to the Office of Administrative Law Judges for modification proceedings.

Claimant's appeal will be reinstated by the Board only if the petitioner requests reinstatement. The request for reinstatement must be filed with the Board within thirty (30) days from the date the decision on modification is filed, and it must be identified by the Board's docket number assigned to this case, BRB No. 07-0258. 20 C.F.R. §802.301(c). The request for reinstatement must be served on all parties. If reinstatement is requested, the Board will consider only the issues raised in the petitioner's appeal of the original decision.

Any party who is aggrieved by the administrative law judge's decision on modification may file a notice of appeal thereof within thirty (30) days of the date the decision on modification is filed. 33 U.S.C. §921; 20 C.F.R. §802.205. This appeal will be assigned a new docket number and will be consolidated with any reinstated appeal of the original decision.

Accordingly, claimant's appeal is dismissed without prejudice and the case is remanded to the Office of Administrative Law Judges for modification proceedings.

NANCY S. DOLDER, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge