

BENNIE E. HUNTER )  
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 Claimant-Petitioner )  
 )  
 v. )  
 )  
 DANOS & CUROLE MARINE ) DATE ISSUED: 12/23/2005  
 CONTRACTORS, INCORPORATED )  
 )  
 and )  
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 THE GRAY INSURANCE COMPANY )  
 )  
 Employer/Carrier- )  
 Respondents ) DECISION and ORDER

Appeal of the Decision and Order of Patrick M. Rosenow, Administrative Law Judge, United States Department of Labor.

Gregory A. Dupuy (Dupuy & Dupuy), Metairie, Louisiana, for claimant.

Douglass M. Moragas, Harahan, Louisiana, for employer/carrier.

Before: DOLDER, Chief Administrative Appeals Judge, SMITH and BOGGS, Administrative Appeals Judges.

PER CURIAM:

Claimant appeals the Decision and Order (2003-LHC-2926) of Administrative Law Judge Patrick M. Rosenow 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). We must affirm the administrative law judge's findings of fact and conclusions of law if they are supported by substantial evidence, are rational, and are in accordance with law. 33 U.S.C. §921(b)(3); *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

Claimant alleged that he sustained an injury to his right ankle on April 19, 2001, while working for employer as a rigger on a platform located off the coast of Texas. Employer voluntarily continued claimant's salary for a period, paying \$4,368.20. Thereafter, employer voluntarily paid claimant temporary total disability benefits in the

amount of \$8,460.32 and various medical benefits. Claimant declined employer's offer of light-duty work and remained unemployed at the time of the October 8, 2004 hearing. Claimant sought total disability benefits, as well as additional medical treatment for knee and back complaints that he alleged were related to the ankle injury.

In his Decision and Order, the administrative law judge found that claimant's ankle injury was totally disabling until August 19, 2001, and that, thereafter, claimant did not establish any physical impairment related to the ankle. The administrative law judge found that claimant did not sustain any knee or back injuries related to the work accident. As to claimant's claim for medical benefits for back surgery, the administrative law judge additionally found that claimant failed to request authorization from employer, and that employer was not on notice of any treatment with Dr. Phillips by virtue of claimant's Jones Act lawsuit. 33 U.S.C. §907(d). Claimant appeals the administrative law judge's Decision and Order.

In support of his appeal, claimant has filed with the Board the same brief he filed with the administrative law judge as his post-hearing "Brief on Behalf of Claimant." Employer responds that claimant's appeal should be denied because the brief claimant submitted does not conform to the requirements of 20 C.F.R. §802.211(b), and, moreover, that substantial evidence supports the administrative law judge's decision.

The Board is authorized to hear and determine appeals raising a substantial question of law or fact taken by any party in interest from decisions with respect to claims of employees under the Longshore Act. 33 U.S.C. §921(b)(3). The findings of fact in the administrative law judge's decision "shall be conclusive if supported by substantial evidence in the record as a whole." *Id.* The Board's regulation at 20 C.F.R. §802.211(b) states:

Each petition for review shall be accompanied by a supporting brief, memorandum of law or other statement which: Specifically states the issues to be considered by the Board; presents, with appropriate headings, an argument with respect to each issue presented with references to transcripts, pieces of evidence and other parts of the record to which the petitioner wishes the Board to refer; . . . .

The Board has held, therefore, that a brief filed by a party represented by counsel must address the administrative law judge's decision and provide a discussion as to why that decision is not supported by substantial evidence or in accordance with law. *Collins v. Oceanic Butler, Inc.*, 23 BRBS 227, 229 (1990); *Shoemaker v. Schiavone & Sons, Inc.*, 20 BRBS 214, 218 (1988); *Carnegie v. C&P Telephone Co.*, 19 BRBS 57, 58-59 (1986).

In the instant case, claimant has not met these threshold requirements. A copy of the post-hearing brief filed with the administrative law judge cannot identify any errors of fact or law allegedly committed by the administrative law judge in his decision as it was composed prior to the issuance of that decision. As claimant's petition for review and brief fails to address the administrative law judge's decision or to identify any errors allegedly contained therein, the decision below must be affirmed. *Collins*, 23 BRBS at 229.

Accordingly, the administrative law judge's Decision and Order is affirmed.

SO ORDERED.

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NANCY S. DOLDER, Chief  
Administrative Appeals Judge

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ROY P. SMITH  
Administrative Appeals Judge

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JUDITH S. BOGGS  
Administrative Appeals Judge