



BRB No. 19-0495
OWCP Nos. 15-052553; 15-052153; 15-050273;
15-049299; 15-049417; 15-045911

BRIAN BENITEZ)	
)	
Claimant-Respondent)	
)	
v.)	
)	
MATSON TERMINALS, INCORPORATED)	
)	DATE ISSUED: 01/08/2020
and)	
)	
SIGNAL MUTUAL INDEMNITY)	
ASSOCIATION)	
)	
Employer/Carrier-)	
Petitioners)	ORDER

On August 14, 2019, employer filed an appeal of the district director’s September 11, 2018 Compensation Order on Attorney Fees and the claims examiner’s July 11, 2019 letter in response to employer’s motion for reconsideration. 33 U.S.C. §921(a); 20 C.F.R. §802.205(a). This appeal is assigned the Board’s docket number 19-0495. All correspondence relating to this appeal must bear this number.

As discussed *infra*, if the purported reconsideration decision had been properly issued, filed, and served, employer’s notice of appeal would be untimely with respect to an order of July 11, 2019, since such an appeal would have had to be filed with the Board by August 12, 2019.¹ See 20 C.F.R. §§802.206(a), (e); 802.221(a). However, the July 11, 2019 letter is not an appealable order for two reasons: 1) the claims examiner is not

¹ Moreover, because a timely motion for reconsideration was filed with the district director, the Board does not have jurisdiction over an appeal of only the September 11, 2018, Compensation Order on Attorney Fees. 20 C.F.R. §802.206(a), (f).

authorized to rule on attorney's fee petitions because the district director may not delegate discretionary functions, *Tupper v. Teledyne Movable Offshore*, 13 BRBS 614 (1981), and; 2) a ruling on an attorney's fee petition must be addressed in a compensation order, not a letter, *Thornton v. Beltway Carpet Service*, 16 BRBS 29 (1983). Thus, as the July 11, 2019 letter signed by the claims examiner was not an order issued by the district director, it is not appealable. Therefore, we dismiss employer's appeal. We remand the case for the district director to address employer's motion for reconsideration of the September 11, 2018 Compensation Order on Attorney Fees and to issue a signed order granting or denying the relief requested.²

Accordingly, employer's appeal is dismissed. The case is remanded to the Office of Workers' Compensation Programs for further consideration in accordance with this opinion.

SO ORDERED.

JUDITH S. BOGGS, Chief
Administrative Appeals

Judge

JONATHAN ROLFE
Administrative Appeals Judge

MELISSA LIN JONES
Administrative Appeals Judge

² Additionally, we note that the claims examiner's letter was not sent to the parties by certified or registered mail, which, along with "filing," commences the period for appeal. *See* 33 U.S.C. §§919(e) (claimant and employer are to be served at the last known address of each by certified or registered mail); 921(a); *Nealon v. California Stevedore & Ballast Co.*, 996 F.2d 966, 27 BRBS 31(CRT) (9th Cir. 1993) ("filing" under Section 19(e) requires service on employer and claimant by certified or registered mail). The regular mail addressed to employer was returned as "undeliverable."