

BRB Nos. 92-0359  
and 92-0954

KAY SEE KIRKLAND )  
 )  
 Claimant-Respondent )  
 )  
 v. )  
 )  
 INGALLS SHIPBUILDING, ) DATE ISSUED:  
 INCORPORATED )  
 )  
 Self-Insured )  
 Employer-Petitioner ) DECISION and ORDER

Appeals of the Supplemental Decision and Order Awarding Attorney Fees of James W. Kerr, Jr., Administrative Law Judge, United States Department of Labor, and the Compensation Order Award of Attorney's Fee of N. Sandra Ramsey, District Director, United States Department of Labor.

Rebecca J. Ainsworth (Maples & Lomax, P.A.), Pascagoula, Mississippi, for claimant.

Paul M. Franke, Jr. (Franke, Rainey & Salloum), Gulfport, Mississippi, for self-insured employer.

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

PER CURIAM:

Employer appeals the Supplemental Decision and Order Awarding Attorney Fees (89-LHC-2611) of Administrative Law Judge James W. Kerr, Jr., and the Compensation Order Award of Attorney's Fee (Case No. 6-109131) of District Director N. Sandra Ramsey 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).<sup>1</sup> The amount of an attorney's fee award is discretionary and may be set aside only if the challenging party shows it to be arbitrary, capricious, an abuse of discretion, or not in accordance with law. *See, e.g., Muscella v. Sun Shipbuilding & Dry Dock Co.*, 12 BRBS 272 (1980).

Claimant sought benefits under the Act for a work-related hearing loss based on an

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<sup>1</sup>The Board consolidated these appeals in an Order dated June 1, 1992.

audiogram administered on March 27, 1987, which revealed a noise-induced 14.7 percent binaural hearing impairment. A second audiogram, conducted on August 20, 1990, revealed an 11.9 percent binaural hearing impairment. After averaging the results of the two audiometric evaluations, the administrative law judge awarded claimant compensation under Section 8(c)(13), 33 U.S.C. §908(c)(13), for a 13.3 percent binaural hearing impairment, medical benefits, and interest.

Subsequent to the administrative law judge's decision, claimant's counsel submitted a fee petition to the administrative law judge requesting an attorney's fee of \$3,258.75, representing 25.75 hours of legal services at the hourly rate of \$125, and \$40 in expenses. Thereafter, employer filed objections to the fee petition. In a Supplemental Decision and Order, the administrative law judge considered employer's specific objections to the fee request, reduced the number of hours sought by counsel to 20.25, reduced the hourly rate sought for 18.5 hours of non-trial services to \$100, awarded an hourly fee of \$125 for 1.75 hours for trial services, and approved counsel's request for \$40 in expenses. He thus awarded a fee of \$2,108.75.

Claimant's counsel also submitted a fee petition to the district director requesting an attorney's fee of \$999.25, representing 9.5 hours of legal services performed at an hourly rate of \$100, and \$49.25 in expenses. Employer filed objections to the fee petition. In a Compensation Order issued on October 2, 1991, the district director considered employer's objections to the fee request, reduced counsel's request for expenses to \$30, and awarded claimant's counsel an attorney's fee of \$985; employer was held liable for \$367.50 of this amount, representing time spent subsequent to December 1, 1987, the date of formal notice, and claimant was found to be liable for the remaining amount of \$567.50.

On appeal, employer challenges the attorney's fees awarded by both the administrative law judge and the district director, incorporating the objections it made below into its appellate briefs. Claimant responds, urging affirmance of both fee awards.

Employer initially objects to counsel's minimum quarter-hour billing method. In its unpublished order in *Ingalls Shipbuilding, Inc. v. Director, OWCP [Fairley]*, No. 89-4459 (5th Cir. July 25, 1990) (unpublished), the United States Court of Appeals for the Fifth Circuit stated that, generally, attorneys should charge no more than one-quarter of an hour for preparation of a one-page letter, and one-eighth of an hour for review of a one-page letter. *See also Ingalls Shipbuilding, Inc. v. Director, OWCP [Biggs]*, 46 F.3d 66 (5th Cir. 1995). Counsel's fee petitions generally conform to these guidelines. However, with regard to the fee petition before the administrative law judge, we find the two one-quarter hour entries requested for services performed on August 24, 1990, and August 31, 1990, to be excessive under these criteria. With regard to claimant's fee petition before the district director, we find the six one-quarter hour entries for services performed on May 14, 1987, July 22, 1987, September 24, 1987, November 3, 1988, November 14, 1988, and March 20, 1989, to be similarly excessive. Accordingly, we modify the awards of the administrative law judge and the district director to reflect the reduction of these entries from one-quarter hour to one-eighth of an hour consistent with *Biggs* and *Fairley*.

Next, with regard to the district director's award of an attorney's fee, employer asserts that the district director improperly awarded a fee for duplicative services performed on December 8, 1987, and December 28, 1987. Both entries state that the service performed was a "letter to Mr. Bergeron and preparation and filing of LS-18." Fee petition at 3. We agree with employer that the time spent on December 28, 1987, is duplicative and thus disallow the one-quarter hour awarded for services rendered on that date.

After considering employer's remaining objections to the number of hours and hourly rate awarded, we reject those contentions as it has not shown that the administrative law judge or the district director abused their discretion in this regard. See *Ross v. Ingalls Shipbuilding, Inc.* 29 BRBS 42 (1995); *Maddon v. Western Asbestos Co.*, 23 BRBS 55 (1989); *Cabral v. General Dynamics Corp.*, 13 BRBS 97 (1981).

Accordingly, the administrative law judge's Supplemental Decision and Order Awarding Attorney Fees is modified to reflect the reduction of the itemized entries on August 24, 1990, and August 31, 1990, from one-quarter to one-eighth hour. BRB No. 92-0954. The district director's Compensation Order Award of Attorney's Fee is modified to reflect the reduction of the itemized entries on May 14, 1987, July 22, 1987, September 24, 1987, November 3, 1988, November 14, 1988, and March 20, 1989, from one-quarter to one-eighth of an hour and the disallowance of one-quarter hour awarded for services rendered on December 28, 1987. BRB No. 92-0359. In all other respects, the administrative law judge's Supplemental Decision and Order Awarding Attorney Fees and the district director's Compensation Order Award of Attorney's Fee are affirmed.

SO ORDERED.

BETTY JEAN HALL, Chief  
Administrative Appeals Judge

ROY P. SMITH  
Administrative Appeals Judge

NANCY S. DOLDER  
Administrative Appeals Judge