

SAMMIE HOOD, JR.	)	
	)	
Claimant-Respondent	)	
	)	
v.	)	
	)	DATE ISSUED:_____
INGALLS SHIPBUILDING,	)	
INCORPORATED	)	
	)	
Self-Insured	)	
Employer-Petitioner	)	DECISION and ORDER

Appeal of 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 Compensation Order -- Award of Attorney's Fee (OWCP No. 6-103287) 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). The amount of an attorney's fee award is discretionary and will not be set aside unless shown by the challenging party to be arbitrary, capricious, an abuse of discretion or not in accordance with the law. *Muscella v. Sun Shipbuilding & Dry Dock Co.*, 12 BRBS 272 (1980).

Claimant filed a claim for benefits for a work-related hearing loss. Employer responded to the claim on March 13, 1987, stating it would accept the claim provided no evidence to the contrary arose. Formal notice of the claim from the district director's office was sent on June 8, 1987, and employer commenced voluntary payments of permanent partial disability benefits for a 23.12 percent binaural impairment pursuant to Section 8(c)(13), 33 U.S.C. §908(c)(13) (1988), on October 22, 1987. Thereafter, the parties agreed to average the results of two audiometric evaluations, and employer agreed to pay benefits for a 27.81 percent binaural impairment.

Claimant's counsel filed a petition for an attorney's fee with the district director for the amount of \$894.25, representing 8.5 hours, at an hourly rate of \$100, and \$44.25 in expenses. The district director awarded counsel a total fee of \$880, representing 8.5 hours of services at a rate of \$100 per hour, plus \$30 in expenses. She then determined that all charges prior to June 8, 1987, totalling \$375, are to be paid by claimant, and all charges thereafter, totalling \$505, are to be paid by employer. Employer appeals the district director's fee award, and claimant responds, urging affirmance.

Employer first contends it should not be held liable for any charges made prior to July 8, 1987, 30 days after it received notice of the claim from the district director's office. We agree with employer; therefore, we hold that all charges for services rendered before July 8, 1987, are to be paid by claimant. 33 U.S.C. §928(a); *Watkins v. Ingalls Shipbuilding, Inc.*, 26 BRBS 179 (1993), *aff'd mem.*, 12 F.3d 209 (5th Cir. 1993); 20 C.F.R. §702.132(a).

Employer also objects to counsel's use of the quarter-hour minimum billing method. Consistent with the decisions of the United States Court of Appeals for the Fifth Circuit in *Ingalls Shipbuilding, Inc. v. Director, OWCP [Fairley]*, No. 89-4459 (5th Cir. July 25, 1990), and *Ingalls Shipbuilding, Inc. v. Director, OWCP [Biggs]*, 46 F.3d 66 (5th Cir. 1995) (table), we reduce the entries on July 18 1987, and November 15, 1987, for review of letters, from one-quarter to one-eighth hour each.

After considering employer's remaining objections to the number of hours and hourly rate awarded, we reject employer's contentions, as it has not shown an abuse of discretion by the district director in this regard.<sup>1</sup> 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).

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<sup>1</sup>We specifically reject employer's contention that it accepted liability for benefits and should not be held liable for a fee pursuant to Section 28(a), 33 U.S.C. §928(a). Although employer alleges it accepted liability in March 1987, it did not voluntarily pay benefits until October 1987. Because employer did not pay benefits until four months after it received notice of the claim from the district director, it effectively declined to pay until that time. *Tait v. Ingalls Shipbuilding, Inc.*, 24 BRBS 59 (1990). We also reject employer's argument that the amount of the fee awarded under Section 28(b), 33 U.S.C. §928(b), must be limited to the difference between the amount of benefits awarded and the amount previously tendered. See, e.g., *Hoda v. Ingalls Shipbuilding, Inc.*, 28 BRBS 197 (1994) (McGranery, J., dissenting) (Decision on Recon.), *appeal dismissed*, No. 94-40920 (5th Cir. Sept. 20, 1995).

Accordingly, the district director's fee award is modified to reflect a total fee award of \$825, of which \$425, plus \$30 in expenses, is to be paid by employer. The remaining \$400 shall be assessed as a lien on claimant's compensation.

SO ORDERED.

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BETTY JEAN HALL, Chief  
Administrative Appeals Judge

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ROY P. SMITH  
Administrative Appeals Judge

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NANCY S. DOLDER  
Administrative Appeals Judge