

BRB No. 92-2388

HAROLD I. YAWN)
)
 Claimant-Respondent)
)
 v.)
)
 INGALLS SHIPBUILDING,) DATE ISSUED:
 INCORPORATED)
)
 Self-Insured)
 Employer-Petitioner) DECISION and ORDER

Appeal of the Decision and Order Awarding Attorney Fees of Quentin P. McColgin,
Administrative Law Judge, United States Department of Labor.

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

Traci M. Castille (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 (88-LHC-1487) of Administrative Law Judge Quentin P. McColgin 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 may be set aside only if the challenging party shows it to be arbitrary, capricious, an abuse of discretion or contrary to law. *Muscella v. Sun Shipbuilding & Dry Dock Co.*, 12 BRBS 272 (1980).

Claimant's counsel sought an attorney's fee of \$3,375, representing 27 hours at \$125 per hour, for work performed before the administrative law judge in connection with claimant's hearing loss claim. The administrative law judge awarded counsel a fee of \$1,987.50, representing 19.875 hours at an hourly rate of \$100, plus expenses of \$65.75. Employer appeals the administrative law judge's fee award, incorporating by reference the arguments it made below into its appellate brief. Claimant responds, urging affirmance of the fee award.

Employer's objections to the number of hours and hourly rate awarded are rejected, as it has not shown that the administrative law judge abused his 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). Employer's specific objection to counsel's method of billing in minimum increments of one-quarter hour also is rejected, as the administrative law judge considered this objection, and his award conforms to the criteria set forth in 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the Fifth Circuit in *Ingalls Shipbuilding, Inc. v. Director, OWCP [Fairley]*, No. 89-4459 (5th Cir. July 25, 1990) (unpublished) and *Ingalls Shipbuilding, Inc. v. Director, OWCP [Biggs]*, No. 94-40066 (5th Cir. Jan. 12, 1995)(unpublished).

Lastly, we agree with employer that the administrative law judge's fee order contains a mathematical error. Specifically, the amount of requested time and hourly rate approved by the administrative law judge result in a total fee of \$1587.50; the administrative law judge's order, however, directs employer to pay a fee of \$1,987.50.¹ We therefore modify the administrative law judge's attorney fee order to reflect employer's liability for a fee of \$1,587.50, representing 15.875 hours of approved services rendered at an hourly rate of \$100.

Accordingly, the Supplemental Decision and Order of the administrative law judge is modified as stated herein, and is otherwise affirmed.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

NANCY S. DOLDER
Administrative Appeals Judge

¹The administrative law judge disallowed 11.125 hours requested by counsel; he thus approved 15.875 hours of services performed at an hourly rate of \$100.