

MARION E. WILLIAMS)	
)	
Claimant-Respondent)	
)	
v.)	
)	
INGALLS SHIPBUILDING,)	DATE ISSUED:
INCORPORATED)	
)	
Self-Insured)	
Employer-Petitioner)	DECISION AND ORDER

Appeal of the Supplemental Decision and Order--Awarding Attorney's Fee of James W. Kerr, Jr., Administrative Law Judge, United States Department of Labor.

John F. Dillon (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's Fee (89-LHC-2671) of Administrative Law Judge James W. Kerr, Jr., 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 not in accordance with law. *See, e.g., Muscella v. Sun Shipbuilding & Dry Dock Co.*, 12 BRBS 272 (1980).

Claimant's counsel sought an attorney's fee of \$3,462.25, representing 27 hours at \$125 per hour plus \$87.25 in expenses, for work performed before the administrative law judge in connection with claimant's hearing loss claim. The administrative law judge considered employer's specific objections to the fee request, reduced the number of hours sought to 21.375, approved an hourly rate of \$100 for non-trial legal services and \$125 for trial time, and awarded claimant's counsel an attorney's fee of \$2,287.25, representing 18.875 hours of non-trial legal services rendered at an hourly rate of \$100, 2.5 hours of trial time rendered at an hourly rate of \$125, plus the requested expenses of \$87.25. Employer appeals the administrative law judge's fee award, incorporating by

reference the objections it made below into its appellate brief. Claimant has filed a response brief, urging affirmance.

Employer contends that the fee awarded is excessive, maintaining that the case was routine and uncontested. An attorney's fee must be awarded in accordance with Section 28 of the Act, 33 U.S.C. §928, and the applicable regulation, Section 702.132, 20 C.F.R. §702.132, which provides that the award of any attorney's fee shall be reasonably commensurate with the necessary work done, the complexity of the legal issues involved and the amount of benefits awarded. *See generally Parrott v. Seattle Joint Port Labor Relations Committee of the Pacific Maritime Ass'n*, 22 BRBS 434 (1989). In the instant case, the administrative law judge considered these specific objections in reducing counsel's requested non-trial hourly rate from \$125 to \$100. We, therefore, reject employer's contention that the awarded fee must be further reduced on this basis.

Employer further objects to counsel's method of billing in minimum increments of one-quarter hour. The United States Court of Appeals for the Fifth Circuit has held that its unpublished fee order in *Ingalls Shipbuilding, Inc. v. Director, OWCP [Fairley]*, No. 89-4459 (5th Cir. July 25, 1990) is considered circuit precedent which must be followed. *Ingalls Shipbuilding, Inc. v. Director, OWCP [Biggs]*, 46 F.3d 66 (5th Cir. 1995) (table). In *Fairley*, the court held that attorneys, generally, may not charge more than one-eighth hour for reading a one-page letter and one-quarter hour for preparing a one-page letter. *See Fairley*, slip op. at 2. Although the administrative law judge initially found this method of billing to be acceptable, he subsequently reduced five entries submitted by counsel from one-quarter to one-eighth of an hour. Thus, as the administrative law judge's decision conforms to the Fifth Circuit's decision in *Fairley*, we decline to further reduce the hours approved by the administrative law judge on this basis. *See Ross v. Ingalls Shipbuilding, Inc.*, 29 BRBS 42 (1995).

After considering employer's remaining objections to the number of hours awarded, and to the hourly rate, we reject these contentions, as it has not shown that the administrative law judge abused his discretion in this regard. *See Ross*, 29 BRBS at 42; *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's Fee is affirmed.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

NANCY S. DOLDER
Administrative Appeals Judge