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| O. D. DONALD |) | BRB No. 93-0183 |
| |) | |
| Claimant-Respondent |) | |
| |) | |
| v. |) | |
| |) | |
| INGALLS SHIPBUILDING, |) | |
| INCORPORATED |) | |
| |) | |
| Self-Insured |) | |
| Employer-Petitioner |) | |
| |) | |
| |) | |
| O. D. DONALD |) | BRB No. 93-0850 |
| |) | |
| Claimant-Respondent |) | |
| |) | |
| v. |) | DATE ISSUED: |
| |) | |
| INGALLS SHIPBUILDING, |) | |
| INCORPORATED |) | |
| |) | |
| Self-Insured |) | |
| Employer-Petitioner |) | DECISION and ORDER |

Appeals of the Supplemental Decision and Order Awarding Attorney Fees of Quentin P. McColgin, Administrative Law Judge, United States Department of Labor, and the Findings of Fact of N. Sandra Ramsey, District Director, United States Department of Labor.

John F. Dillon (Maples & Lomax, P.A.), Pascagoula, Mississippi, for claimant.

Traci 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 (89-LHC-2411) of Administrative Law Judge Quentin P. McColgin, and the Findings of Fact (Case No. 6-99964) 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).¹ 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 Roach v. New York Protective Covering Co.*, 16 BRBS 114 (1984); *Muscella v. Sun Shipbuilding & Dry Dock Co.*, 12 BRBS 272 (1980).

Claimant's counsel sought an attorney's fee of \$3,312.50, representing 26.5 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 \$1,725, representing 17.25 hours at an hourly rate of \$100, plus expenses of \$21.25. Claimant's counsel also filed a fee petition for work performed before the district director in which he requested an attorney's fee of \$875, representing 8.75 hours of legal services performed at an hourly rate of \$100, and \$108 in expenses. After noting that employer had filed specific objections to counsel's fee request, the district director approved the attorney's fee request and awarded claimant's counsel a fee of \$975. Of this awarded fee, claimant was held liable for \$362.50, representing attorney services rendered prior to employer's receipt of formal notice of the claim on February 13, 1987, *see* 33 U.S.C. §928(c), while employer was found liable for the remaining \$612.50, representing 5.125 hours of services rendered at an hourly rate of \$100, plus \$100 in expenses.

Employer appeals the fee awards of both the district director, BRB No. 93-0183, and the administrative law judge, BRB No. 93-0850, incorporating by reference the arguments it made below into its appellate briefs. Claimant responds, urging affirmance of the fee awards.

Employer's objections to the number of hours and hourly rates awarded are rejected, as it has not shown that the district director or the administrative law judge abused her or 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 next objects to counsel's use of the minimum one-quarter hour billing method. 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*

¹By Order dated February 17, 1993, the Board consolidated for purposes of decision the employer's appeal of the administrative law judge's Supplemental Decision and Order Awarding Attorney Fees, BRB No. 93-0850, and its appeal of the district director's Findings of Fact, BRB No. 93-0183. 20 C.F.R. §802.104.

Fairley, slip op. at 2. We reject employer's entry-specific challenges to the fee petition presented to the district director, as the entries challenged by employer conform to the guidelines set forth by the Fifth Circuit. We also reject employer's challenge to the use of this billing method in claimant's fee petition presented to the administrative law judge, as the administrative law judge considered this objection, and his award conforms to the criteria set forth in *Fairley* and *Biggs*.

Employer's contentions which were not raised below will not be addressed for the first time on appeal. *Bullock v. Ingalls Shipbuilding, Inc.*, 27 BRBS 90 (1993)(*en banc*) (Brown and McGranery, JJ., concurring and dissenting), *modified on other grounds on recon. en banc*, 28 BRBS 102 (1994), *aff'd mem. sub nom. Ingalls Shipbuilding, Inc. v. Director, OWCP [Biggs]*, 46 F.3d 66 (5th Cir. 1995); *Clophus v. Amoco Production Co.*, 21 BRBS 261 (1988).

Accordingly, the Supplemental Decision and Order of the administrative law judge and Findings of Fact of the district director are affirmed.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

NANCY S. DOLDER
Administrative Appeals Judge