

EDMOUR J. LADOUCEUR	)	
	)	
Claimant-Respondent	)	
	)	
v.	)	
	)	
INGALLS SHIPBUILDING,	)	
INCORPORATED	)	DATE ISSUED:
	)	
Self-Insured	)	
Employer-Petitioner	)	DECISION and ORDER

Appeal of the Supplemental Decision and Order Awarding Attorney Fees of A. A. Simpson, Jr., Administrative Law Judge, United States Department of Labor.

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 (90-LHC-2404) of Administrative Law Judge A.A. Simpson, Jr., rendered on a claim filed pursuant to the provisions of the Longshore and Harbor Workers' Compensation Act, as amended, 30 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 filed a claim for compensation under the Act, and was successful in obtaining benefits for his hearing loss. Claimant's counsel filed a Petition for Approval of Attorney's Fee, requesting \$2,971.75, representing 23.25 hours of services at \$125 per hour and \$65.50 in expenses. Employer filed objections to the fee petition. In a Supplemental Decision and Order Awarding Attorney Fees, after considering employer's objections, the administrative law judge awarded counsel \$1,136.25 for 12.25 hours of services, plus \$65.50 in expenses.

On appeal, employer challenges the fee award on various grounds, incorporating by reference the objections it made below into its appellate brief. Claimant has not responded to this appeal.

Employer contends that the fee award is excessive in view of the fact that this was a routine hearing loss claim involving undetailed form pleadings. 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 any attorney's fee approved shall be reasonably commensurate with the necessary work done, the complexity of the 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 entering a fee award, the administrative law judge specifically took the regulatory criteria into account when reducing counsel's requested hourly rate from \$125 to \$85 for work performed in 1990 and to \$95 for work performed in 1991. Moreover, employer has not established that the administrative law judge abused his discretion in awarding these hourly rates, and we accordingly affirm the rates awarded. *See Maddon v. Western Asbestos Co.*, 23 BRBS 55 (1989).

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). Employer's objection to certain itemized entries also is rejected. *Ross v. Ingalls Shipbuilding, Inc.*, 29 BRBS 42 (1995).

Employer's contentions that 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 is affirmed.

SO ORDERED.

BETTY JEAN HALL, Chief  
Administrative Appeals Judge

ROY P. SMITH  
Administrative Appeals Judge

NANCY S. DOLDER  
Administrative Appeals Judge