

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

Appeal of the Supplemental Decision and Order Awarding Attorney Fees of Richard D. Mills, 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 Fees (89-LHC-1758) of Administrative Law Judge Richard D. Mills 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 under the Act seeking benefits for a noise-induced hearing loss. The parties stipulated that claimant's average weekly wage is \$302.66, and the administrative law judge awarded claimant benefits for a 22.19 percent binaural impairment converted to an eight percent impairment of the whole man pursuant to Section 8(c)(23) of the Act, 33 U.S.C. §908(c)(23). The administrative law judge also awarded claimant a Section 14(e) penalty. 33 U.S.C. §914(e).

Thereafter, claimant's counsel submitted a fee petition to the administrative law judge, requesting an attorney's fee of \$3,441.75, representing 27.25 hours of services at \$125 per hour and \$35.50 in expenses. Employer filed objections to the fee. Claimant replied, and sought a fee for additional services. In a Supplemental Decision and Order, the administrative law judge reduced the number of hours sought by 7.5, reduced the hourly rate sought to \$110, and awarded claimant an attorney's fee of \$2,172.50, plus the requested expenses.

On appeal, employer challenges the administrative law judge's award of an attorney's fee, incorporating by reference the objections it made below into its appellate brief. Claimant responds, urging affirmance of the fee award.

Employer contends that the fee award is excessive, maintaining that the case was a routine and uncontested 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 the award of an 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 the complexity of the case in reducing counsel's requested hourly rate from \$125 to \$110, and we reject employer's contention that the fee should be reduced further on this basis. Thus, the hourly rate of \$110 is affirmed.

Employer additionally challenges the number of hours requested by claimant's counsel and approved by the administrative law judge. In considering counsel's fee petition, the administrative law judge addressed employer's specific objections, and reduced the number of hours sought by 7.5. Employer's assertions on appeal are insufficient to meet its burden of proving that the administrative law judge abused his discretion in this regard; thus, we decline to further reduce or disallow the hours approved by the administrative law judge. See *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).

Accordingly, the administrative law judge's Supplemental Decision and Order Awarding Attorney Fees is affirmed.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

NANCY S. DOLDER
Administrative Appeals Judge