

EDWARD D. BULLOCK)	
)	
Claimant-Respondent)	
)	
v.)	
)	
INGALLS SHIPBUILDING,)	DATE ISSUED:
INCORPORATED)	
)	
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.

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

Traci M. Castille (Franke, Rainey & Salloum), Gulfport, Mississippi, for 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-2591) 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, 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. *Muscella v. Sun Shipbuilding & Dry Dock Co.*, 12 BRBS 272 (1980).

Claimant was awarded benefits for an 18.36 percent binaural hearing loss pursuant to Section 8(c)(13) of the Act, 33 U.S.C. §908(c)(13). The administrative law judge also awarded claimant medical benefits under Section 7 of the Act, 33 U.S.C. §907, as stipulated by the parties, and a penalty pursuant to Section 14(e) of the Act, 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 \$3,752.25, representing 29.75 hours of services at \$125 per hour, and \$33.50 in expenses. Employer filed objections to the fee request. In a Supplemental Decision and Order, the administrative law judge reduced the hourly rate sought to \$110 and the number of hours

sought by 10.5. The administrative law judge awarded claimant's counsel a fee of \$2,117.50, representing 19.25 hours of services at \$110 per hour, plus \$33.50 in expenses, for a total fee award of \$2,151. 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 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 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 the instant case, the administrative law judge agreed with employer's objection that the requested hourly rate of \$125 was too high in light of the lack of complex issues, and he awarded an hourly rate of \$110. We reject employer's argument on appeal that the fee should be further reduced based on this criterion because employer has not satisfied its burden of showing that the administrative law judge abused his discretion in awarding a fee based on an hourly rate of \$110. *Watkins v. Ingalls Shipbuilding, Inc.*, 26 BRBS 179 (1993), *aff'd mem.*, 12 F.3d 209 (5th Cir. 1993). Contrary to employer's contention, moreover, this was not an uncontested case, as employer did not voluntarily pay compensation.

Employer additionally challenges the number of hours requested by claimant's counsel and approved by the administrative law judge. In this regard, employer contends that the time spent in certain discovery-related activities and in reviewing and preparing various legal documents was either unnecessary or excessive. In considering counsel's fee petition, the administrative law judge set forth employer's specific objections, reduced the number of hours requested by 10.5, and determined that the remaining time requested by claimant's counsel for services rendered was both reasonable and necessary. Because employer has failed to show an abuse of discretion by the administrative law judge in awarding time for these services, having specifically considered employer's objections, we reject these item-specific contentions and decline to further reduce the administrative law judge's award. *See generally Watkins*, 26 BRBS at 179; *Mijangos v. Avondale Shipyards, Inc.*, 19 BRBS 15 (1986), *rev'd on other grounds*, 948 F.2d 941, 25 BRBS 78 (CRT)(5th Cir. 1991).

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