

JESSE W. CURTIS)	
)	
Claimant-Respondent)	
)	
v.)	DATE ISSUED: _____
)	
INGALLS SHIPBUILDING,)	
INCORPORATED)	
)	
Self-Insured)	
Employer-Petitioner)	DECISION and ORDER

Appeal of the Supplemental Decision and Order Awarding Attorney Fees of C. Richard Avery, Administrative Law Judge, United States Department of Labor.

Mitchell G. Latoff, Sr. (Lattof & Lattof, P.C.), Mobile, Alabama, 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 (92-LHC-819) of Administrative Law Judge C. Richard Avery 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). We must affirm the findings of fact and conclusions of law of the administrative law judge which are rational, supported by substantial evidence, and in accordance with law. *O'Keefe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965); 33 U.S.C. §921(b)(3). The amount of an attorney's fee award is discretionary and may only be set aside if shown to be arbitrary, capricious, an abuse of discretion, or not in accordance with the law. *See, e.g., Muscella v. Sun Shipbuilding & Dry Dock Co.*, 12 BRBS 272 (1980).

Claimant's counsel sought an attorney's fee of \$3,292.50, representing 19.75 hours at \$150 per hour and 3 hours at \$110 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 \$2,502.50, representing 22.75 hours at an hourly rate of \$110, plus expenses of \$50. Employer appeals the administrative law judge's fee award, incorporating by reference the arguments it made below into its appellate brief. Claimant responds, urging affirmance of the fee award.

After considering employer's objections to the number of hours awarded, and to the hourly rate, we reject these contentions, as it has not been shown that the administrative law judge abused 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).¹

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 is affirmed.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

NANCY S. DOLDER
Administrative Appeals Judge

¹Although employer objected to the one-half hour entries claimed on June 2, 8, and 11, 1992 and July 2, 1992, on specificity grounds, the administrative law judge did not abuse his discretion in awarding a fee for these entries which substantially comply with the requirements of the applicable regulation, 20 C.F.R. §702.132.