

STEVEN HAUFF)	
)	
Claimant-Petitioner)	
)	
v.)	
)	
STEVEDORING SERVICES OF)	DATE ISSUED:_____
AMERICA)	
)	
and)	
)	
EAGLE PACIFIC INSURANCE)	
COMPANY)	
)	
Employer/Carrier-)	
Respondents)	DECISION and ORDER

Appeal of the Compensation Order of Karen P. Goodwin, District Director, United States Department of Labor.

Charles Robinowitz, Portland, Oregon, for claimant.

Before: HALL, Chief Administrative Appeals Judge, SMITH and DOLDER, Administrative Appeals Judges.

PER CURIAM:

Claimant appeals the Compensation Order (No. 14-86693) of District Director Karen P. Goodwin 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. *See Muscella v. Sun Shipbuilding & Dry Dock Co.*, 12 BRBS 272 (1980).

Claimant received a compensation award for a work-related back injury under the Act. Claimant's counsel sought an attorney's fee of \$2,287.50, representing 14.75 hours at \$150 per hour for attorney services and 1.5 hours at \$50 per hour for a legal assistant's services, plus \$71.30 in costs, for work performed before the district director in connection with claimant's claim. Employer filed objections, contending that it should not be liable for the two-hour entry on October 24, 1992, representing counsel's conference with claimant in which they discussed the administrative law judge's decision, interest owed and rights regarding modification. Employer stated that the entry

reflects "client hand-holding," and because the entry appears to be related to appellate options, it should be recovered only through petition to the Board following appeal.¹ The district director agreed with employer, and awarded claimant the requested fee, assessing the two-hour October 24, 1992, entry totalling \$300 against claimant, noting that employer had complied with the administrative law judge's order and was paying benefits. She assessed the remainder of the attorney's fee against employer. 33 U.S.C. §928.

On appeal, claimant contends that the district director erred in assessing the October 24, 1992, entry against claimant instead of against employer. Employer has not responded to this appeal.

We agree with claimant that employer is liable for this entry. Claimant's counsel is entitled to a fee payable by employer for successfully prosecuting his claim. *See generally Mobley v. Bethlehem Steel Corp.*, 20 BRBS 239 (1988), *aff'd*, 920 F.2d 558, 24 BRBS 49 (CRT) (9th Cir. 1990). Once employer's liability is established under Section 28 of the Act, employer is liable for a fee reasonably commensurate with the necessary work performed. *See* 20 C.F.R. §702.132; *Maddon v. Western Asbestos Co.*, 23 BRBS 55, 62 (1989). In this case, the district director implicitly found the October 24, 1992, entry reasonable and necessary, as she did not disallow the time but assessed it against claimant. *See Nelson v. Stevedoring Services of America*, 29 BRBS 90, 95 (1995) (reasonable "wind-up" services are compensable). There is no basis, however, for holding claimant liable, inasmuch as employer was held liable for the rest of the attorney's fee awarded in this case, a finding it does not dispute. Thus, the district director erred in not also assessing this entry against employer. We therefore modify the district director's award, and award claimant the requested attorney's fee of \$2,287.50, representing 14.75 hours of attorney services at \$150

¹We note that no appeal on the merits was filed in this case.

per hour and 1.5 hours at \$50 per hour for a legal assistant's work, plus \$71.30 in costs, to be assessed against employer.

Accordingly, the district director's Compensation Order is herein modified.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

NANCY S. DOLDER
Administrative Appeals Judge