

BRB No. 11-0604
Case No. 2010-LHC-01175
OWCP No. 06-0205593

GAIL SPENCER)
)
Claimant-Respondent)
)
v.)
)
SSA/COOPER) DATE ISSUED: 07/20/2011
)
and)
)
HOMEPORT INSURANCE COMPANY)
)
Employer/Carrier-)
Petitioners)
)
DIRECTOR, OFFICE OF WORKERS')
COMPENSATION PROGRAMS)
UNITED STATES DEPARTMENT)
OF LABOR)
)
Party-in-Interest) ORDER

The Board acknowledges employer's timely appeal, received May 20, 2011, of Administrative Law Judge Richard K. Malamphy's Order Transferring The Case for Reassignment and Order Rejecting The Section 8(i) Agreement. This Order was served by the administrative law judge on May 2, 2011. 33 U.S.C. §921(b); 20 C.F.R. §802.205. Employer's appeal is assigned the Board's docket number 11-0604. All correspondence pertaining to this appeal must bear this number.

In his Order, the administrative law judge granted claimant's motion to withdraw from an unapproved settlement agreement and reassigned the case for a hearing. Consequently, there has been no final decision on claimant's claim for benefits and employer's appeal is taken from an interlocutory order. *Craven v. Director, OWCP*, 604 F.3d 902, 44 BRBS 31(CRT) (5th Cir. 2010); *Arjona v. Interport Maintenance*, 24 BRBS 222 (1991). This appeal does not provide a basis for the Board to depart from its general

rule against deciding interlocutory appeals.¹ *See, e.g., Newton v. P&O Ports Louisiana, Inc.*, 38 BRBS 23 (2007); *Hartley v. Jacksonville Shipyards, Inc.*, 28 BRBS 100 (1994); *Niazy v. The Capital Hilton Hotel*, 19 BRBS 266 (1987). Therefore, we dismiss employer's appeal. We note, moreover, that pursuant to *Oceanic Butler, Inc. v. Nordahl*, 842 F.2d 773, 21 BRBS 33(CRT) (5th Cir. 1988), and *Rogers v. Mutual Indemnity Ass'n*, 37 BRBS 33 (2003), the administrative law judge appears to have properly permitted claimant to withdraw from the unapproved settlement agreement. *See also* 33 U.S.C. §§908(i), 915(b), 916; 20 C.F.R. §§702.241-702.243.

Accordingly, employer's appeal is dismissed.

SO ORDERED.

ROY P. SMITH
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge

JUDITH S. BOGGS
Administrative Appeals Judge

¹The "collateral order" doctrine provides for review of an interlocutory appeal if: (1) the order conclusively resolves the disputed question; (2) the order resolves an important issue completely separate from the merits of the action; and (3) the order is effectively unreviewable on appeal from a final judgment. *See, e.g., Green v. Ingalls Shipbuilding, Inc.*, 29 BRBS 81 (1995); *Hartley v. Jacksonville Shipyards, Inc.*, 28 BRBS 100 (1994). The Board may also accept an interlocutory appeal when it is necessary to properly direct the course of the adjudicative process. *See, e.g., Hardgrove v. Coast Guard Exchange System*, 37 BRBS 21 (2003); *Baroumes v. Eagle Marine Services*, 23 BRBS 80 (1989).