

BRB No. 99-0874

ALBERT L. MOODY, JR.)
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 Claimant-Petitioner)
)
 v.)
)
 INGALLS SHIPBUILDING,) DATE ISSUED:
 INCORPORATED)
)
 Self-Insured)
 Employer-Respondent) DECISION and ORDER

Appeal of the Compensation Order - Award of Attorney's Fees of Jena F. Jackson, District Director, United States Department of Labor.

Robin Reid Boswell (Nelson & Boswell), Pascagoula, Mississippi, for claimant.

Traci M. Castille (Franke, Rainey & Salloum, PPLC), Gulfport, Mississippi, for self-insured employer.

Before: HALL, Chief Administrative Appeals Judge, SMITH, Administrative Appeals Judge, and NELSON, Acting Administrative Appeals Judge.

PER CURIAM:

Claimant appeals the Compensation Order - Award of Attorney's Fees (6-151826) of District Director Jeana F. Jackson 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 will not be set aside unless shown by the challenging party to be arbitrary, capricious, an abuse of discretion, or not in accordance with law. *See Roach v. New York Protective Covering Co.*, 16 BRBS 114 (1984).

On July 8, 1996, employer tendered to claimant benefits for a monaural hearing loss arising out of his employment with employer. Claimant's counsel, having thus successfully

represented claimant in a claim filed under the Act, thereafter filed a fee petition for work performed before the district director, requesting 1.625 hours of attorney services rendered at an hourly rate of \$150, plus expenses of \$9.50, for a total fee of \$253.25. Employer filed objections to this fee request. In a Compensation Order, the district director stated she reduced the hourly rate requested to \$100 based on the quality of representation, the complexity of the case, and the benefits awarded, disallowed 1.375 of the hours requested, and awarded counsel \$25, representing .25 hours of services rendered at an hourly rate of \$100.

On appeal, claimant challenges the district director's summary reduction in the number of hours requested. Employer responds, urging affirmance.¹

Claimant contends that the district director erred in summarily reducing the number of hours requested without explanation. We agree. In her Compensation Order, the district director disallowed all hours for services performed after June 17, 1996, which was prior to employer's tender of benefits on July 9, 1996, based upon her decision to sustain employer's objections to those requested services. This summary disallowance of time requested by counsel does not give the Board a sufficient explanation upon which to decide whether the district director's determinations were arbitrary, capricious, an abuse of discretion, or not in accordance with law. *See Roach*, 16 BRBS at 114; *Swain v. Bath Iron Works Corp.*, 14 BRBS 657 (1982). Moreover, we note that, contrary to the district director's statement, employer did not make any specific objections to itemized entries. Accordingly, we vacate the district director's fee award to counsel, and we remand the case for the district director to give an explanation for any reduction of the requested attorney's fee.

In the case at bar, employer before the district director conceded that it is liable for a fee pursuant to Section 28 of the Act, 33 U.S.C. §928, up to the date it tendered payment to claimant, *i.e.*, July 8, 1996. *See Employer's Objections to Fee Petition*. Additionally, it is not unreasonable for employer to be held liable for a fee for services such as counsel's explaining the implications of an employer's payment to the claimant, or for counsel to ascertain that the correct sum has been paid. *See Everett v. Ingalls Shipbuilding, Inc.*, 32 BRBS 279 (1998), *aff'd on recon. en banc*, 33 BRBS 38 (1999). Questions regarding the necessity and reasonableness of such requested time, however, must be addressed by the district director on remand. *See Nelson v. Stevedoring Services of America*, 29 BRBS 90 (1995).

¹Employer incorporates by reference the objections it filed to claimant's fee petition before the district director. Response Brief at 1.

Accordingly, the district director's Compensation Order - Awarding Attorney's Fees is vacated, and the case remanded for further consideration consistent with this opinion.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

MALCOLM D. NELSON, Acting
Administrative Appeals Judge