



BRB Nos. 17-0618
and 17-0618A

ANTHONY T. TAFT)	
)	
Claimant-Respondent)	
Cross-Petitioner)	
)	
v.)	
)	
LOCKHEED MARTIN CORPORATION)	
)	
and)	DATE ISSUED: <u>May 21, 2018</u>
)	
ACE AMERICAN INSURANCE)	
COMPANY)	
)	
Employer/Carrier-)	ORDER on MOTION
Petitioners)	for RECONSIDERATION
Cross-Respondents)	EN BANC

Employer has filed a timely motion for reconsideration en banc of the Board’s Order dismissing the appeals in this case, *Taft v. Lockheed Martin Corp.*, BRB Nos. 17-0618/A (Feb. 13, 2018). 33 U.S.C. §921(b)(5); 20 C.F.R. §802.407. Claimant responds, urging the Board to deny employer’s motion and to affirm the Order. We deny employer’s motion.

Employer contends the Board erred in dismissing its timely-filed appeal because its motion for reconsideration of the administrative law judge’s decision was not timely filed. We reject employer’s contention for the reasons set forth in the Board’s Order in this case. The Board explained that employer’s extension request filed on the 10th day after the underlying decision was filed by the district director and the subsequent filing of a substantive motion for reconsideration, which the administrative law judge addressed on the merits, constituted a timely motion for reconsideration under 20 C.F.R. §802.206(b)(1). *Taft*, slip op. at 3. In light of the timely-filed motion for reconsideration, any pending appeals had to be dismissed as premature pursuant to Section 802.206(f) of the Board’s Rules of Practice and Procedure, 20 C.F.R. §802.206(f). As employer did not file a notice

of appeal after the administrative law judge's denial of reconsideration,¹ the time for appealing the administrative law judge's decision expired.²

Accordingly, employer's motion for reconsideration en banc is denied. 20 C.F.R. §802.409.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

JUDITH S. BOGGS
Administrative Appeals Judge

GREG J. BUZZARD
Administrative Appeals Judge

RYAN GILLIGAN
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge

¹ Claimant filed a timely appeal following the administrative law judge's denial of reconsideration, BRB No. 18-0006, and that appeal remains pending.

² We reject employer's assertion that the Board's dismissal of its appeal denies it due process. The requirement that a prematurely-filed appeal be dismissed and the right to file a new appeal after an administrative law judge issues a decision on reconsideration are well-established procedures under the Act. *See Aetna Casualty & Surety Co. v. Director, OWCP [Jourdan]*, 97 F.3d 815, 30 BRBS 81(CRT) (5th Cir. 1996); *Tideland Welding Service v. Sawyer*, 881 F.2d 157, 22 BRBS 122(CRT) (5th Cir. 1989), *cert. denied*, 495 U.S. 904 (1990); 20 C.F.R. §802.206(f). Any loss of employer's rights in this case was due to its failure to file a new appeal after the administrative law judge ruled on its motion for reconsideration. *Jourdan*, 97 F.3d at 821, 30 BRBS at 86(CRT); 20 C.F.R. §802.206(d), (e).