

VICTORINO VENTURA)
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 Claimant)
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 v.)
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 MARISCO, LIMITED) DATE ISSUED: 10/31/2012
)
 Employer-Petitioner)
)
 SEABRIGHT INSURANCE COMPANY)
)
 Carrier-Respondent) ORDER

Employer appealed the administrative law judge’s Order Approving Settlement and Attorney’s Fees, Denying Employer’s Motion Objecting to Agreed Settlement, and Granting Employer’s Motion for Leave to File Motion for Summary Decision. Employer has now filed a Motion for Remand and for Stay of Appellate Proceedings, or In the Alternative, Motion to Dismiss Appeal without Prejudice to Reinstatement. Carrier responds, urging the Board to deny employer’s motion.

We grant employer’s motion to dismiss its appeal without prejudice.¹ The administrative law judge should proceed to address employer’s motion for summary decision on the Section 49 issue pursuant to the Board’s remand order in *Ventura v. Marisco, Ltd.*, BRB No. 11-0376 (Jan. 27, 2012).

The Board will reinstate employer’s appeal only if the petitioner, employer, requests reinstatement. The request for reinstatement must be filed with the Board within thirty (30) days from the date the administrative law judge’s Decision and Order on the Section 49 claim is filed and must be identified by the Board’s docket number, BRB No. 12-0538, assigned to the case. The request for reinstatement must be served on all parties.

¹Accordingly, we deny employer’s motion to stay the appellate proceedings.

In the event any party is aggrieved by the administrative law judge's decision on the Section 49 issue, an appeal must be filed with the Board within thirty (30) days of the date of the administrative law judge's Decision and Order is filed. 33 U.S.C. §921; 20 C.F.R. §802.205. The appeal of the administrative law judge's Decision and Order on the Section 49 claim will be assigned a new docket number and will be consolidated with the reinstated appeal.

Accordingly, employer's appeal is dismissed without prejudice.

SO ORDERED.

NANCY S. DOLDER, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

BETTY JEAN HALL
Administrative Appeals Judge