

BRB No. 07-1015

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| K. C. |) | |
| |) | |
| Claimant-Petitioner |) | |
| |) | |
| v. |) | |
| |) | |
| NORTHROP GRUMMAN SHIP SYSTEMS, INCORPORATED |) | DATE ISSUED: 09/15/2008 |
| |) | |
| Self-Insured |) | ORDER on |
| Employer-Respondent |) | RECONSIDERATION |

Claimant has timely filed a motion for reconsideration of the Board's Decision and Order in *K. C. v. Northrop Grumman Ship Systems, Inc.*, BRB No. 07-1015 (June 27, 2008) (unpub.). 33 U.S.C. §921(b)(5); 20 C.F.R. §802.407. Employer has filed a response brief urging rejection of claimant's motion.

In its decision, the Board affirmed the district director's finding that employer is not liable for an attorney's fee pursuant to Section 28(a), 33 U.S.C. §928(a), because employer was voluntarily paying compensation for partial disability at the time claimant filed his claim. *K.C.*, slip op. at 3-4. The Board also affirmed the district director's finding that Section 28(b), 33 U.S.C. §928(b), is inapplicable because a written recommendation was not made in this case addressing the issue on which claimant succeeded before the administrative law judge. *Id.* at 4-5. After considering claimant's contentions, we find that there is no basis to reconsider our decision in this case as claimant has not raised any errors in the Board's decision. Thus, we deny claimant's motion for reconsideration.¹

Claimant also contends in his motion that the Board erred by not ruling on his demand for an evidentiary hearing before an administrative law judge for the purpose of

¹ Claimant cannot overcome at this time the absence of a written recommendation from the district director issued before the case was referred to the Office of Administrative Law Judges. Therefore, claimant's request that the Board issue such a recommendation or that we remand this case for the district director to issue a recommendation is rejected.

fact finding regarding the circumstances of the informal conference held on August 25, 2005. Claimant's "demand" was stated in his Amended Notice of Appeal filed on October 15, 2007. *See* Claimant's Motion for Recon. at EX B. The Board's regulations specifically state what should be included in a notice of appeal. 20 C.F.R. §802.208. The regulations also provide that any motion must be in a separate document and may not be incorporated in any other paper filed with the Board; the Board will not consider motions not put forth in a separate document. 20 C.F.R. §802.219(b). Moreover, claimant did not raise this issue in his Petition for Review and brief. *See generally Plappert v. Marine Corps Exchange*, 31 BRBS 109, *aff'g on reconsideration. en banc*, 31 BRBS 13 (1997) (issues that are inadequately briefed will not be addressed). Finally, claimant does not have an absolute right to a hearing on the issues concerning attorney's fees for work performed before the district director. *See Healy Tibbitts Builders, Inc. v. Cabral*, 201 F.3d 1090, 33 BRBS 209(CRT) (9th Cir.), *cert. denied*, 531 U.S. 956 (2000). The district director is in the best position to ascertain the nature of the proceedings before his office. Therefore, claimant's contention that the Board erred by not ruling on his motion to remand for an evidentiary hearing is rejected.

Accordingly, claimant's motion for reconsideration is denied. 20 C.F.R. §802.409. Claimant's contention that the Board erred by not addressing his demand that was presented in his Amended Notice of Appeal is rejected. The Board's decision is affirmed.

SO ORDERED.

NANCY S. DOLDER, Chief
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge

JUDITH S. BOGGS
Administrative Appeals Judge