

CLYDE BLACKSTON)	
)	
Claimant-Respondent)	
)	
v.)	
)	
INGALLS SHIPBUILDING,)	DATE ISSUED:
INCORPORATED)	
)	
Self-Insured)	
Employer-Petitioner)	DECISION and ORDER

Appeal of the Compensation Order Award of Attorney's Fee of Jeana F. Jackson, District Director, Office of Workers' Compensation Programs, United States Department of Labor.

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

Before: HALL, Chief Administrative Appeals Judge, SMITH and DOLDER, Administrative Appeals Judges.

PER CURIAM:

Employer appeals the Compensation Order Award of Attorney's Fee (No. 6-153760) 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 may be set aside only if the challenging party shows it to be arbitrary, capricious, an abuse of discretion, or contrary to law. *Muscella v. Sun Shipbuilding & Dry Dock Co.*, 12 BRBS 272 (1980).

Claimant filed a claim under the Act for a noise-induced work-related hearing loss. On July 25, 1993, the district director formally notified employer of claimant's claim. Employer allegedly paid claimant \$74.56 plus \$9 in interest.

Claimant's attorney thereafter submitted a fee petition for services rendered at the district director level between January 29, 1993 and July 24, 1995, requesting \$1,536.62, for 4.125 hours of legal services rendered prior to September 1, 1993, at \$125 per hour and 6.375 hours of legal services rendered subsequent to September 1, 1993, at \$150 per hour, plus \$64.75 in expenses. Employer filed objections. The district director reduced the hourly rate requested after September 1, 1993, to \$125 per hour and allowed \$55 of the expenses requested. In addition, although the district

director agreed with employer that pursuant to *Jones v. Chesapeake & Potomac Telephone Co.*, 11 BRBS 7 (1979) *aff'd mem.*, No. 79-1458 (D.C. Cir. February 26, 1980), *amended*, (D.C. Cir. March 31, 1980), the time claimed by counsel prior to August 24, 1993, the 30th day following the district director's formal notice of claim to employer, is chargeable to claimant as a lien upon his compensation, she declined to assess any of the fee against claimant in view of his minimal recovery. Accordingly, she awarded claimant's counsel \$867.50, representing the 8.75 hours of services performed after August 24, 1993, at \$125 per hour, and \$55 in expenses, payable by employer.

Employer appeals the district director's fee award, incorporating by reference the arguments it made below into its appellate brief. Claimant has not submitted a response brief.

Employer's objections to the number of hours and hourly rate awarded are rejected, as it has not shown that the district director abused her discretion in this regard. See *Ross v. Ingalls Shipbuilding, Inc.*, 29 BRBS 42 (1995); *Maddon v. Western Asbestos Co.*, 23 BRBS 55 (1989); *Cabral v. General Dynamics Corp.*, 13 BRBS 97 (1981).

Employer's contentions which were not raised below will not be addressed for the first time on appeal. *Bullock v. Ingalls Shipbuilding, Inc.*, 27 BRBS 90 (1993) (*en banc*)(Brown and McGranery, JJ., concurring and dissenting), *modified on other grounds on recon. en banc*, 28 BRBS 102 (1994), *aff'd mem. sub nom. Ingalls Shipbuilding, Inc. v. Director, OWCP [Biggs]*, 46 F.3d 66 (5th Cir. 1995); *Clophus v. Amoco Production Co.*, 21 BRBS 261 (1988).

Accordingly, the district director's Compensation Order Award of Attorney's Fee is affirmed.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

NANCY S. DOLDER
Administrative Appeals Judge