

WAYNE WINGERT)	
)	
Claimant-Respondent)	
)	
v.)	
)	
STEVEDORING SERVICES)	
OF AMERICA)	DATE ISSUED:
)	
and)	
)	
HOMEPORT INSURANCE)	
COMPANY)	
)	
Employer/Carrier-)	
Petitioners)	DECISION and ORDER

Appeal of the Compensation Order - Approval of Attorney Fee Application of Karen P. Staats, District Director, United States Department of Labor.

Gregory A. Bunnell (Pozzi, Wilson, Atchison), Portland, Oregon, for claimant.

John Dudrey (Williams, Fredrickson & Stark, P.C.), Portland, Oregon, for employer/carrier.

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

PER CURIAM:

Employer appeals the Compensation Order - Approval of Attorney Fee Application (14-120902) of District Director Karen P. Staats 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).

Subsequent to claimant's award of compensation benefits under the Act, claimant's counsel filed a fee petition with the district director requesting \$3,325, representing 19 hours of services rendered at the rate of \$175 per hour. Employer filed objections to this fee petition contending, *inter alia*, that counsel should not receive a fee for travel time. Thereafter, the district director requested a further explanation from counsel, whose office is located in Portland, Oregon, for the 6.5 hours of travel time requested to meet with and

interview claimant in Coos Bay. Counsel responded to the district director's request, and subsequently sought an additional fee of \$350, representing two hours at \$175 per hour for the defense of his fee petition.

In her Compensation Order, the district director reduced claimant's counsel's hourly fee to \$165 and awarded all of the hours requested; accordingly, the district director awarded a fee of \$3,465.

Employer now appeals, contending that the district director erred in awarding all of the hours requested by counsel for travel time and in defending the fee petition. Claimant's counsel responds, urging affirmance.

After careful review of the file and the issues raised by employer on appeal, we hold that the decision of the district director is neither arbitrary, capricious, an abuse of discretion, or not in accordance with law. See *Roach v. New York Protective Covering Co.*, 16 BRBS 114 (1984); *Muscella v. Sun Shipbuilding & Dry Dock Co.*, 12 BRBS 272 (1980).

Fees for travel time may be awarded only where the travel is necessary, reasonable, and in excess of that normally considered to be a part of overhead. See *Griffin v. Virginia International Terminals, Inc.*, 29 BRBS 133 (1995); *Neeley v. Newport News Shipbuilding & Dry Dock Co.*, 19 BRBS 138 (1986); *Swain v. Bath Iron Works Corp.*, 14 BRBS 657 (1982). In the instant case, the district director's decision to credit counsel's statement that his trip to Coos Bay to meet with and interview claimant was both necessary and beyond normal office overhead is neither inherently incredible nor patently unreasonable. See *generally Coredro v. Triple A Machine Shop*, 580 F.2d 1331, 8 BRBS 744 (9th Cir. 1978), *cert. denied*, 440 U.S. 911 (1979). Accordingly, we affirm the district director's award of the time requested for travel by counsel from Portland to Coos Bay. See *generally Ferguson v. Southern States Cooperative*, 27 BRBS 16 (1993); *Harrod v. Newport News Shipbuilding & Dry Dock Co.*, 14 BRBS 592 (1981).

Lastly, employer alleges that the district director erred in awarding claimant's counsel two hours for the preparation of his defense of his fee petition. The United States Court of Appeals for the Ninth Circuit, within whose jurisdiction this case arises, has held that time spent in preparing a fee application is compensable if the time awarded is reasonable. See *Anderson v. Director, OWCP*, 91 F.3d 1322, 30 BRBS 67 (CRT)(9th Cir. 1996). Employer's objection to these hours fails to establish that the district director's award is either an abuse of discretion or unreasonable. Therefore, we affirm the district director's award of two hours of services for the preparation of the fee defense.

Accordingly, the Compensation Order - Approval of Attorney Fee Application of the district director is affirmed.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

NANCY S. DOLDER
Administrative Appeals Judge