

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

Appeal of the Supplemental Decision and Order Awarding Attorney's Fees of Quentin P. McColgin, Administrative Law Judge, United States Department of Labor.

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

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

PER CURIAM:

Employer appeals the Supplemental Decision and Order Awarding Attorney's Fees (88-LHC-2218) of Administrative Law Judge Quentin P. McColgin 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 not in accordance with law. *See, e.g., Muscella v. Sun Shipbuilding & Dry Dock Co.*, 12 BRBS 272 (1980).

This is the second time this case involving claimant's attorney's fee has been before the Board. Claimant's counsel sought an attorney's fee of \$2,403.25 representing 19 hours at \$125 per hour for work performed before the administrative law judge in connection with claimant's hearing loss claim. Employer filed objections. In a Supplemental Decision and Order, the administrative law judge awarded counsel a fee of \$1,575, representing 15.75 hours at an hourly rate of \$100, plus expenses of \$28.25. *Colson v. Ingalls Shipbuilding, Inc.*, 88-LHC-2218 (Aug. 4, 1992). Employer appealed the administrative law judge's fee award to the Board. On appeal, the Board rejected employer's arguments relating to the hourly rate awarded and minimum quarter-hour billing but declined to address employer's

arguments that the complexity of the case and the quality of the representation did not warrant the fee awarded because these arguments were raised for the first time on appeal.

Inasmuch, however, as the administrative law judge neglected to consider whether the fee awarded was warranted in light of the benefits obtained, an objection which employer had raised, the Board remanded the case for the administrative law judge to reconsider counsel's fee in light of the amount of benefits obtained. *Colson v. Ingalls Shipbuilding, Inc.*, BRB No. 92-2386 (Nov. 29, 1995) (unpublished).

In a Supplemental Decision and Order Awarding Attorney's Fees dated June 21, 1996, after noting that the benefits counsel secured only amounted to \$500, the administrative law judge reduced the previous fee award by thirty percent "to take into account the small amount of benefits gained and the desirability of billing judgment in advancing small claims." In the current appeal, employer maintains that while it does not disagree with the administrative law judge's reduction of the fee by thirty percent on remand, the thirty percent reduction should be off a "properly computed" fee. Employer contends that the initial fee awarded was not "properly computed" because it was based on minimum quarter-hour billing, contrary to controlling case precedent of the United States Court of Appeals for the Fifth Circuit. Claimant has not responded to this appeal.

Employer's minimum billing argument was previously considered and rejected by the Board in the prior appeal in this case. In rejecting employer's argument, the Board noted that the administrative law judge considered this objection, and had reduced the time claimed to increments of one-eighth hour where he deemed such reductions appropriate, consistent with the criteria set forth in the decisions of the United States Court of Appeals for the Fifth Circuit in *Ingalls Shipbuilding, Inc. v. Director, OWCP [Fairley]*, No. 89-4459 (5th Cir. July 25, 1990) (unpublished) and *Ingalls Shipbuilding, Inc. v. Director, OWCP, [Biggs]*, 46 F.3d 66 (5th Cir. 1995) (table). As the issue of minimum quarter-hour billing was fully considered and resolved by the Board in the prior appeal, we hold that our decision on this issue constitutes the law of the case, and therefore decline to consider this issue again. See *Bruce v. Bath Iron Works Corp.*, 25 BRBS 157, 159 (1991).

Accordingly, the Supplemental Decision and Order Awarding Attorney's Fees is affirmed.

SO ORDERED.

BETTY JEAN HALL, Chief  
Administrative Appeals Judge

ROY P. SMITH  
Administrative Appeals Judge

NANCY S. DOLDER  
Administrative Appeals Judge