

GERARD MONGRELLA)	
)	
Claimant-Petitioner)	
)	
v.)	
)	
PALMER CONTRACTING,)	
INCORPORATED)	DATE ISSUED:
)	
and)	
)	
AETNA INSURANCE)	
& CASUALTY COMPANY)	
)	
Employer/Carrier-)	
Respondents)	DECISION and ORDER

Appeal of the Compensation Order-Award of Attorney's Fee of Richard V. Robilotti, District Director, United States Department of Labor.

Milton Garber (Baker, Garber, Duffy & Pedersen), Hoboken, New Jersey, for claimant.

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

PER CURIAM:

Claimant appeals the Compensation Order-Award of Attorney's Fees (2-93221) of District Director¹ Richard V. Robilotti 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 will not be set aside unless shown by the challenging party 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).

¹The title "district director" has been substituted for the title "deputy commissioner" used in the statute. 20 C.F.R. §702.105.

In a Decision and Order dated February 21, 1989, Administrative Law Judge Melvin Warshaw awarded claimant temporary total disability compensation from November 20, 1986 through January 11, 1987, medical benefits, and attorney's fees for a lower back injury he sustained on November 20, 1986 while working for employer. Subsequently on April 3, 1989, claimant filed an attorney's fee petition for work performed before the district director, requesting \$11,375, representing "approximately" 45 and 3/4 hours at an hourly rate of \$250. On April 11, 1989, employer filed objections, contending that both the overall hours and hourly rate sought were excessive and that claimant should be limited to a fee of \$1,200 representing 12 hours of work at \$100 per hour. In a Compensation Order Awarding Attorney's Fees dated April 26, 1989, the district director awarded claimant's counsel the sum of \$2,500 payable by employer. Claimant appeals this award, contending that the district director acted arbitrarily because he reduced the requested fee without providing any explanation for the reduction. Employer has not responded to this appeal.

We agree with claimant. In the instant case, the form Order issued by the district director states that, counsel having requested fees of \$11,375, after consideration of regulatory factors the district director finds that the "fee request as submitted is reasonable and that it should properly be assessed against the employer/insurance carrier in accordance with Section 28." Despite this statement, the Order concludes by awarding the sum of \$2,500. The district director thus summarily reduced the \$11,375 fee requested to \$2,500 without any explanation.

The amount of a requested fee may be reduced if an explanation for the reduction is provided, indicating whether the hourly rate or number of hours were reduced and why. *See Devine v. Atlantic Container Lines, G.I.E.*, 23 BRBS 280, 288 (1990). In the present case, although the district director cited the regulatory criteria of 20 C.F.R. §702.132, he failed to indicate how these criteria apply to the fee reduction or to provide any explanation for the reduction. As the district director acted arbitrarily and capriciously in reducing the requested fee without explanation, we must vacate the fee award. The case is remanded for reconsideration and further explanation of the fee consistent with applicable law. *Id.* On remand, the district director must specify any reductions, identifying which hours are compensable and the applicable hourly rate. *See Roach v. New York Protective Covering Co.*, 16 BRBS 114 (1984); *Speedy v. General Dynamics Corp.*, 15 BRBS 448 (1983).

Accordingly, the district director's Compensation Order-Award of Attorney's Fees is vacated, and the case is remanded for further consideration of the fee in accordance with this opinion.

SO ORDERED.

NANCY S. DOLDER, Acting Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge