



BRB No. 20-0444

DANIEL C. KING)	
)	
Claimant-Respondent)	
)	
v.)	
)	DATE ISSUED: 08/31/2020
FLECK CONSTRUCTION,)	
INCORPORATED d/b/a FORTRESS)	
MARINE CONSTRUCTION)	
)	
Employer-Respondent)	
)	
WESCO INSURANCE COMPANY)	
)	
Carrier-Petitioner)	ORDER

Wesco Insurance Company (Wesco) has filed a timely appeal of Administrative Law Judge Jonathan C. Calianos’s June 23, 2020 Order Granting, in Part, Claimant’s Motion for Partial Summary Decision [and] Denying Wesco’s Cross Motion for Partial Summary Decision (2019-LHC-00650). 33 U.S.C. §921(a); 20 C.F.R. §802.205(a). This appeal is acknowledged and assigned the Board’s docket number BRB No. 20-0444. 20 C.F.R. §802.210.

We dismiss Wesco’s appeal because it is interlocutory. The administrative law judge’s Order granting in part and denying motions for partial summary decision on the issue of Wesco’s potential liability for benefits is not a “final decision or order” as it neither awards nor denies benefits to Claimant. 33 U.S.C. §919(e); *Liberty Mut. Ins. Co. v. Wetzel*, 424 U.S. 737, 744 (1976) (decisions granting partial summary judgment but leaving the “award[] of other relief . . . to be resolved have never been considered . . . ‘final’ within the meaning of 28 U.S.C. § 1291”); *Green v. Ingalls Shipbuilding, Inc.*, 29 BRBS 81 (1995). The appeal is not subject to the “collateral order doctrine” as, at a minimum, the Order is reviewable upon the issuance of a final decision or order. *See, e.g., Rochester v. George Washington Univ.*, 30 BRBS 233 (1997); *c.f. Zaradnik v. The Dutra Group*, 52 BRBS 23 (2018) (deciding appeal on interlocutory basis as all prongs of the collateral order

doctrine were present). Although the Board has the authority to decide interlocutory appeals, *see* 33 U.S.C. §923(a), it is not necessary for the Board to direct the course of the adjudicatory process in this case; no due process or other special considerations exist that warrant the Board's addressing the appeal at this juncture. *See, e.g., Watson v. Huntington Ingalls Industries, Inc.*, 51 BRBS 17 (2017); *Baroumes v. Eagle Marine Services*, 23 BRBS 80 (1989); *Niazy v. The Capital Hilton Hotel*, 19 BRBS 266 (1987).

Accordingly, we dismiss Wesco's appeal.

SO ORDERED.

JUDITH S. BOGGS, Chief
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge

MELISSA LIN JONES
Administrative Appeals Judge