

BRB No. 03-640 BLA
Case No. 00-BLA-0171

DALE A. OLSON (Deceased))	
)	
Claimant-Petitioner)	DATE ISSUED: 11/26/2003
)	
v.)	
)	
PEABODY COAL COMPANY)	
)	
Employer-Respondent)	
)	
DIRECTOR, OFFICE OF WORKERS')	
COMPENSATION PROGRAMS, UNITED)	
STATES DEPARTMENT OF LABOR)	
)	
Party-in-Interest)	ORDER

On November 20, 2003, the Board received an entry of appearance by Deana Cole, lay representative, on behalf of claimant and his wife. The letter also informed the Board that claimant is now deceased, and requests that the case be remanded to the district director.

The Board construes claimant's letter to be a request for modification. 20 C.F.R. §802.301. In light of claimant's request for modification, the Board dismisses this appeal and remands the case to the Office of the District Director for modification proceedings. 20 C.F.R. §725.310. *See Jessee v. Director, OWCP*, 5 F.3d 723, 18 BLR 2-26 (4th Cir. 1993).

The case will be reinstated by the Board only if the petitioner requests reinstatement. The request for reinstatement must be filed with the Board within thirty (30) days from the date the Order on modification is filed and must be identified by the Board's docket number assigned to the case. The request for reinstatement must be served on all parties. If reinstatement is requested, the Board will consider only the issues raised in petitioner's appeal of the original decision.

After the request for modification is processed by the district director, the case may be transferred to an administrative law judge for a hearing pursuant to the regulations. In the event the administrative law judge denies modification and claimant wishes the Board to consider not only the original appeal, but also whether the denial of modification was

erroneous, a Notice of Appeal of the Order denying modification must be filed, in addition to the request for reinstatement. The Notice of Appeal must also be filed with the Board within thirty (30) days of the date the Order on modification is filed. 20 C.F.R. §§802.205, 802.301(c). The appeal of the Order on modification will be assigned a new docket number and will be consolidated with the appeal of the original decision.

In the event an administrative law judge grants modification, any party aggrieved by the Order granting modification may file an appeal with the Board within thirty (30) days of the date the Order granting modification is filed. 20 C.F.R. §§802.205, 802.301(c). In light of the above, the Director's motion to hold the briefing schedule in abeyance is moot.

ROY P. SMITH
Administrative Appeals Judge

BETTY JEAN HALL
Administrative Appeals Judge

PETER A. GABAUER, Jr.
Administrative Appeals Judge