

BRB No. 06-0518
OWCP No. 06-0185905

LARRY D. DAY)
)
 Claimant-Petitioner)
)
 v.)
)
 JAMES MARINE, INCORPORATED) DATE ISSUED: 05/25/2006
) ORDER
 Employer-Respondent)

The Board acknowledges receipt of claimant's timely Notice of Appeal of the district director's Order Awarding Attorney's Fee, filed February 28, 2006, and the district director's Decision on Motion for Reconsideration and Award of Attorney's Fees Under Section 28 of the Act (Case No. 06-0185905), filed March 22, 2006, 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). 33 U.S.C. §921(a); 20 C.F.R. §802.205. Claimant's appeal is assigned the Board's docket number BRB No. 06-0518. All future correspondence to the Board must bear this number.

Claimant also has filed a motion for an expedited, summary decision. Claimant avers that he does not challenge the substance of the district director's Orders, but wishes only to preserve his right to appeal the Board's decision dated December 20, 2005. *Day v. James Marine, Inc.*, BRB No. 05-0346 (Dec. 20, 2005). In its decision, the Board vacated the district director's award pursuant to Section 28(b) of an attorney's fee against employer, and remanded the case to the district director. The Board held that employer is liable for an attorney's fee pursuant to Section 28(a) from the date it received written notice of claimant's claim from the district director to the date it paid benefits pursuant to the district director's December 2001 recommendations. The relevant dates were not contained in the filed before the Board so the case was remanded for the district director to ascertain these dates and to enter a fee award accordingly. In addition, the Board held that employer is liable for an attorney's fee pursuant to Section 28(b) from July 28, 2003, when it suspended its voluntary payments to September 16, 2003, when the case was referred to the Office of Administrative Law Judges. The Board held that employer is not liable for claimant's attorney's fee prior to its receipt of written notice of the claim, and during the period it paid claimant pursuant to the district director's recommendation. The

Board held that as claimant received an ongoing award of permanent total disability benefits, the district director was to address claimant's liability for a fee for these periods pursuant to Section 28(c).

On remand, the district director ascertained the relevant dates and assessed an attorney's fee of \$4,690 against employer and of \$9,415.40 against claimant. Claimant does not challenge these awards, but contends only that the Board's decision was in error. The Board's December 2005 decision constitutes the law of the case and claimant has not alleged that this doctrine is inapplicable. *See, e.g., Boone v. Newport News Shipbuilding & Dry Dock Co.*, 37 BRBS 1 (2003); *Ravalli v. Pasha Maritime Services*, 36 BRBS 91 (2002), *denying recon. in* 36 BRBS 47 (2002). Therefore, we reject claimant's challenge to the Board's prior decision and affirm the district director's fee award.

Accordingly, claimant's motion for an expedited, summary decision is granted. 20 C.F.R. §802.303(b). The district director's Order Awarding Attorney's Fee and Decision on Motion for Reconsideration and Award of Attorney's Fees Under Section 28 of the Act are affirmed.

SO ORDERED.

NANCY S. DOLDER, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

BETTY JEAN HALL
Administrative Appeals Judge