



BRB No. 16-0360
OWCP No. 02-218472

EVERETT WATSON)	
)	
Claimant-Petitioner)	
)	
v.)	
)	
FLUOR DANIEL CORPORATION)	
)	DATE ISSUED: <u>May 27, 2016</u>
and)	
)	
THE INSURANCE COMPANY OF THE)	
STATE OF PENNSYLVANIA)	
)	
Employer/Carrier-)	
Respondents)	ORDER

By motions filed with the Board on May 12 and 16, 2016, claimant notified the Board that he has filed a Section 22, 33 U.S.C. §922, motion for modification, accompanied by new evidence, with the district director and requests that the Board allow him to withdraw his appeal.

Section 802.301(c) of the Board’s regulations, 20 C.F.R. §802.301(c), states that if a party has filed a motion for modification, his appeal will be dismissed without prejudice. We, therefore, grant claimant’s motion, dismiss his appeal without prejudice, and remand this case to the district director for modification proceedings. 33 U.S.C. §922; *see generally Old Ben Coal Co. v. Director, OWCP*, 292 F.3d 533, 36 BRBS 35(CRT) (7th Cir. 2002); *Betty B Coal Co. v. Director, OWCP*, 194 F.3d 491 (4th Cir. 1999) (successive motions for modification permitted); 20 C.F.R. §702.373.

Claimant’s appeal will be reinstated by the Board only if he requests reinstatement. The request for reinstatement must be filed with the Board no later than 30 days from the date an administrative law judge’s decision on modification is filed by the district director. The request for reinstatement must be identified by the docket

number assigned to this case by the Board, BRB No. 16-0360, and it must be served on all parties.

Any party who is aggrieved by an administrative law judge's decision on modification may file a notice of appeal of that decision within 30 days of the date the decision on modification is filed by the district director. 33 U.S.C. §921; 20 C.F.R. §802.205. This appeal will be assigned a new docket number and will be consolidated with any reinstated appeal of the original decision.

Accordingly, claimant's appeal is dismissed without prejudice and the case is remanded to the district director for modification proceedings. 20 C.F.R. §§702.373, 802.301(c). As the Board is prohibited from receiving new evidence, the documents claimant filed with the Board are being returned to him. 20 C.F.R. §802.301(b).

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

RYAN GILLIGAN
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge