



BRB No. 21-0263
OWCP No. 07-317413

LARRY BROOKS)	
)	
Claimant-Petitioner)	
)	
v.)	
)	
UNITED STEVEDORES OF AMERICA,)	
INCORPORATED)	
)	
and)	
)	DATE ISSUED: 09/15/2021
SIGNAL MUTUAL INDEMNITY)	
ASSOCIATION, LIMITED)	
)	
Employer/Carrier-)	
Respondents)	
)	
DIRECTOR, OFFICE OF WORKERS')	
COMPENSATION PROGRAMS, UNITED)	
STATES DEPARTMENT OF LABOR)	
)	
Respondent)	ORDER

On February 17, 2021, Claimant filed a notice of appeal of District Director David Duhon’s Order Approving Attorney Fee as well as his response to Claimant’s motion for reconsideration, all dated February 2, 2021.¹ 33 U.S.C. §921(a); 20 C.F.R. §802.205(a). He contends the district director erred in denying an employer-paid attorney’s fee under

¹ The Order actually denies an employer-paid attorney’s fee, but advises counsel that he may be entitled to a fee as a lien on Claimant’s benefits under 33 U.S.C. §928(c).

Section 28(b), 33 U.S.C. §928(b). Employer and the Director, Office of Workers' Compensation Programs respond, urging affirmance.

The Board does not have jurisdiction to address this appeal. Claimant filed a timely motion for reconsideration of the district director's fee denial. Characterizing Claimant's motion as a "letter," the district director issued a letter in response to that motion. A letter is not appealable – it is not a proper decision or order. *Thornton v. Beltway Carpet Service*, 16 BRBS 29 (1983); *Lopes v. New Bedford Stevedoring Corp.*, 12 BRBS 170 (1979); 20 C.F.R. §802.201(a). As the district director did not properly dispose of the motion for reconsideration, it remains pending. If a motion for reconsideration is pending before the district director, the Board must dismiss the appeal without prejudice as premature. 20 C.F.R. §802.206(a), (f);² *see generally Aetna Casualty & Surety Co. v. Director, OWCP*, 97 F.3d 815, 30 BRBS 81(CRT) (5th Cir. 1996). If any party is aggrieved by the district director's original order or order on reconsideration, a new appeal may be filed with the Board within 30 days of the filing date of the order on reconsideration. 20 C.F.R. §§802.205, 802.206(d)-(f).

² Section 802.206(f) states:

If a timely motion for reconsideration of a decision or order of an administrative law judge or [district director] is filed, any appeal to the Board, whether filed prior to or subsequent to the filing of the timely motion for reconsideration, shall be dismissed without prejudice as premature. Following decision by the administrative law judge or [district director] pursuant to either paragraph (d) or (e) of this section, a new notice of appeal shall be filed with the Clerk of the Board by any party who wishes to appeal.

Accordingly, the Board dismisses Claimant's appeal as premature and returns the case to the district director for issuance of a proper order.

SO ORDERED.

JUDITH S. BOGGS, Chief
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge

DANIEL T. GRESH
Administrative Appeals Judge