

BRB Nos. 04-0221
and 04-0283
Case No. 02-LHC-2046
OWCP No. 06-0177276

MICHELLE HOUTZ)
)
 Claimant-Respondent) DATE
ISSUED:Jan. 22, 2004)
)
 v.)
)
 DEPARTMENT OF THE ARMY)
)
 Employer-Petitioner) ORDER

By Order dated December 15, 2003, the Board dismissed employer's appeal as premature in BRB No. 04-0221. 20 C.F.R. §802.206.

Employer has filed a request for reconsideration of that Order. In support of the request, counsel states the administrative law judge's Decision filed on December 8, 2003, held that employer's second motion for reconsideration was untimely and without merit. The administrative law judge therefore ruled that his initial Decision of October 24, 2003 was final.

Since the motion for reconsideration was untimely filed with the administrative law judge, the time for filing a notice of appeal was not suspended. 20 C.F.R. §802.206(a). The Board will therefore accept employer's appeal dated November 18, 2003, as timely filed from the administrative law judge's Decision and Order filed October 24, 2003. The Board grants employer's request and reinstates the appeal in BRB No. 04-0221.

By letter dated December 22, 2003, the Board acknowledged receipt of employer's Notice of Appeal of the administrative law judge's Decision and Order Upon Second Motion for Reconsideration filed on December 8, 2003. The

Board assigned employer's appeal the Board's docket number, BRB No. 04-0283 and set the briefing schedule. In light of the aforementioned action regarding BRB No. 04-0221, employer's appeal in BRB No. 04-0283 is dismissed.

Employer must file its Petition for Review and brief and two (2) legible copies within thirty (30) days from receipt of this Order with proof of service on all parties to this appeal. 20 C.F.R. §§802.211, 802.216.

The District Director is notified that an appeal has been filed with the Board. It is requested that the District Director forward the official record of the case to the Board upon receipt of this Order. 20 C.F.R. §802.209.

DOLDER, Chief
Appeals Judge

NANCY S.
Administrative

Appeals Judge

ROY P. SMITH
Administrative

HALL

BETTY JEAN

Appeals Judge

Administrative