

BRB No. 04-333 BLA
Case No. 01-BLA-0611

ELEANOR O'BRIEN (Widow of)
ROBERT O'BRIEN))
) DATE ISSUED: April 30, 2004
Claimant-Petitioner)
)
v.)
)
)
DIRECTOR, OFFICE OF WORKERS')
COMPENSATION PROGRAMS,)
UNITED STATES DEPARTMENT)
OF LABOR)
)
Respondent) ORDER

By Order dated March 11, 2004, the Board directed claimant to show cause why this appeal should not be dismissed for failure to comply with the requirements as to timely filing of the Petition for Review and brief. 20 C.F.R. §§802.218(b), 802.402(a).

In response, counsel for claimant filed a Motion to Remand this case to the Office of the District Director for modification proceedings. The Board grants claimant's motion. This case is hereby dismissed and remanded to the District Director for modification proceedings. 20 C.F.R. §725.310. This case will be reinstated by the Board only if claimant 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.

Once 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 administrative law judge erred in denying modification a Notice of Appeal of the Order denying modification must be filed in addition to the request for reinstatement within thirty (30) days of the date the Order on modification is filed. 20 C.F.R. §802.205.

In the event an administrative law judge grants modification, any party who is

aggrieved by the decision granting modification may file an appeal with the Board within thirty (30) days of the date the decision granting modification is issued. 20 C.F.R. §§802.205, 802.301.

NANCY S. DOLDER, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

BETTY JEAN HALL
Administrative Appeals Judge