

BRB No. 05-385 BLA
Case No. 04-BLA-0086

ALPHONSE ROZOSKI)
)
 Claimant-Petitioner) DATE
) ISSUED: 2/23/05
 v.)
)
 DIRECTOR, OFFICE OF WORKERS')
 COMPENSATION PROGRAMS, UNITED)
 STATES DEPARTMENT OF LABOR)
)
 Respondent)

ORDER

On January 25, 2005, claimant filed an appeal of the administrative law judge's Order Upon Claimant's Request For Reconsideration. The Board has obtained a copy of the administrative law judge's order which is the subject of this appeal. A review of the order establishes it is not a final order, and therefore not ripe for appeal to the Board.

In his order of November 2, 2004, the administrative law judge remanded this case to the district director, pursuant to 20 C.F.R. §725.310, to provide him the opportunity to review all of the evidence relevant to claimant's motion for modification. In his order of December 20, 2004, the administrative law judge denied claimant's motion for reconsideration, and remanded the case to the district director for further appropriate action.

Generally, a decision or order must be final before the Board will consider an appeal from that decision. The Board, however, will accept an interlocutory appeal if it is necessary to properly direct the course of the adjudicatory process. *See Butler v. Ingalls Shipbuilding, Inc.*, 28 BRBS 114 (1994). Additionally, the Board will accept an appeal of an order which is interlocutory in nature if it meets the following three-pronged test. First, the order must conclusively determine the disputed question. Secondly, the order must resolve an important issue which is completely separate from the merits of the action. Finally, the order must be effectively unreviewable on appeal from a final judgement. *See Canada Coal Co. v. Stiltner*, 886 F.2d 153 (6th Dir. 1989); *see also Gulfstream Aerospace Corp. v. Mayacomas Corp.*, 485 U.S. 271, 108 S.Ct. 1133 (1988).

Inasmuch as claimant's appeal of the administrative law judge's order remanding the case to the District Director, does not meet any of the criteria for accepting an interlocutory appeal, claimant's appeal is dismissed.

NANCY S. DOLDER, Chief
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge

BETTY JEAN HALL
Administrative Appeals Judge