

BRB Nos. 03-162 BLA  
and 04-160 BLA

ALFRED W. WRIGHT	)	DATE ISSUED: 01/30/2004
	)	
Claimant-Petitioner	)	
	)	
v.	)	
	)	
KITCHEKAN FUEL CORPORATION	)	
	)	
Employer-Respondent	)	
	)	
DIRECTOR, OFFICE OF WORKERS'	)	
COMPENSATION PROGRAMS,	)	
UNITED STATES DEPARTMENT	)	
OF LABOR	)	
	)	
Party-in-Interest	)	ORDER

The Director has filed a Motion to Dismiss Claimant's Appeal (BRB No. 04-160 BLA) for Lack of Jurisdiction and Claimant's Appeal (BRB No. 03-162 BLA) as premature, in the captioned cases. No objection to the motion has been filed.

On January 8, 2003, the Board dismissed claimant's appeal, BRB No. 03-162 BLA, and remanded the case to the Office of the District Director for modification proceedings. On October 3, 2003, the District Director issued a Proposed Decision and Order Denying Request for Modification.

By letter dated October 19, 2003, claimant requested an appeal of the District Director's Proposed Decision and Order Denying Request for Modification issued October 3, 2003. In addition, claimant requested reinstatement of his previous appeal, BRB No. 03-162 BLA. By letter dated November 6, 2003, the Board acknowledged claimant's appeal, assigned it the Board's docket number, BRB No. 04-160 BLA, and initiated the briefing schedule. Moreover, the Board reinstated claimant's previous appeal, BRB No. 03-162 BLA, on the Board's docket.

In support of his motion, the Director contends that claimant's current appeal to the Board, as well as his request for reinstatement is premature. The Director argues that jurisdiction for claimant's appeal of the District Director's order denying modification rests with the Office of Administrative Law Judges, and not with the Board. We agree with the Director that the proper forum for claimant's appeal of the District Director's order denying modification is with the Office of Administrative Law Judges. 20 C.F.R. §§725.450, 725.451. Accordingly, claimant's appeals in BRB Nos. 03-162 BLA and 04-160 BLA are dismissed, and the case is remanded to the Office of Administrative Appeals Judges for a hearing. Any party dissatisfied with the decision of the administrative law judge may file an appeal with the Board. 20 C.F.R. §802.201.

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REGINA C. McGRANERY  
Administrative Appeals Judge

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BETTY JEAN HALL  
Administrative Appeals Judge

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PETER A. GABAUER, Jr.  
Administrative Appeals Judge