

BRB No. 04-481 BLA
Case No. 03-BLA-5868

OKIE SHEPHERD)
)
 Claimant-Respondent)
)
 v.)
)
 NATIONAL MINES CORPORATION)
)
 and)
)
 OLD REPUBLIC INSURANCE COMPANY) DATE ISSUED: 3/30/04
)
 Employer/Carrier-)
 Petitioner)
)
 DIRECTOR, OFFICE OF WORKERS')
 COMPENSATION PROGRAMS, UNITED)
 STATES DEPARTMENT OF LABOR)
)
 Party-in-Interest) ORDER

The Board has received the Director's Motion to Dismiss Appeal for Lack of Jurisdiction in the captioned case. As grounds for the motion the Director's states that he filed a motion for reconsideration with the administrative law judge on February 19, 2004, which was denied on March 16, 2004. Therefore, employer's appeal filed on March 4, 2004, was premature.

Section 802.206(f) of the Board's Rules of Practice and Procedure, 20 C.F.R. §802.206(f), provides that if a timely motion for reconsideration of a decision or order of an administrative law judge 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 as premature. The Board, therefore, dismisses employer's appeal as premature. 20 C.F.R. §802.206(f).

If any party is aggrieved by the administrative law judge's decision on reconsideration, an appeal must be filed with the Board within thirty (30) days of the filing date of the decision on reconsideration. 20 C.F.R. §802.205.

NANCY S. DOLDER, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

BETTY JEAN HALL
Administrative Appeals Judge