

BRB No. 06-0224 BLA

DORIS J. OSOBA	)	
(Widow of CHARLES OSOBA)	)	
	)	
Claimant-Respondent	)	
	)	
v.	)	
	)	
BETHENERGY MINES, INCORPORATED	)	
	)	DATE ISSUED: 11/08/2006
Employer-Petitioner	)	
	)	
DIRECTOR, OFFICE OF WORKERS'	)	
COMPENSATION PROGRAMS, UNITED	)	
STATES DEPARTMENT OF LABOR	)	
	)	
Party-in-Interest	)	ORDER

Employer appealed the Decision and Order on Remand - Awarding Benefits (04-BLA-6798) of Administrative Law Judge Daniel L. Leland on a claim filed pursuant to the provisions of Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended, 30 U.S.C. §901 *et seq.* (the Act).

The Director, Office of Workers' Compensation Programs (the Director), has now filed a Motion to Remand For Payment From The Black Lung Disability Trust Fund (the Trust Fund), notifying the Board that employer is bankrupt and is no longer defending claims because the proceeds of a surety bond, which paid for any benefits owed on claims, have been exhausted. On August 25, 2006, employer's counsel informed the Board that he no longer represented employer because the bond supporting defense litigation had been exhausted. The Director indicates that, as a result, the Trust Fund is responsible for the payment of benefits awarded against employer. The Director states further that he does not dispute the determination that claimant is entitled to benefits. Consequently, the Director requests that the case be remanded to the district director for payment of benefits by the Trust Fund.

The Board accepts the Director's Motion to Remand for Payment as a withdrawal of controversion of all issues. *See Pendley v. Director*, OWCP, 13 BLR 1-23 (1989). Accordingly, we grant the Director's motion and remand this case to the district director for the payment of benefits to claimant. The appeal assigned BRB Docket No. 06-0224 BLA is hereby dismissed.

---

NANCY S. DOLDER, Chief  
Administrative Appeals Judge

---

ROY P. SMITH  
Administrative Appeals Judge

---

BETTY JEAN HALL  
Administrative Appeals Judge