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In the Matter of the Compensation of  
**JOHN A. WATSON, Claimant**  
WCB Case No. 02-0558S  
ORDER OF DISMISSAL (REMANDING)  
Steven M Schoenfeld, Claimant Attorneys  
Julene M Quinn, SAIF Legal, Defense Attorneys

Reviewing Panel: Members Langer and Biehl.

The Board has received the SAIF Corporation's request for review of Administrative Law Judge (ALJ) Marshall's order that vacated a prior ALJ's approval of the parties' Stipulation and Disputed Claim Settlement agreement, disapproved the agreement, and directed that a hearing regarding SAIF's denial be scheduled. Because we conclude that the ALJ's order is not a final order, we dismiss the request for review.

#### FINDINGS OF FACT

Claimant, then unrepresented, signed a Stipulation and Disputed Claim Settlement agreement on July 31, 2002. The agreement recited that claimant requested a hearing from SAIF's July 29, 2002 denial of his right knee claim, but had agreed to resolve all issues raised or raisable in the request for hearing in exchange for certain settlement monies.<sup>1</sup> A prior ALJ approved the agreement on August 7, 2002.

On August 12, 2002, SAIF forwarded to the Hearings Division a copy of a handwritten letter from claimant stating "Please do not submit the Disputed Claim Settlement to the Administrative Law Judge. I do not wish to settle." On August 14, 2002, another ALJ abated the August 7, 2002 Stipulation and Disputed Claim Settlement and invited a response from SAIF.

On August 27, 2002, the ALJ issued an Order Disapproving Stipulation and Disputed Claim Settlement. The ALJ also vacated the August 7, 2002 approval of the agreement. The ALJ reasoned that the Hearings Division retained jurisdiction over the Stipulation for 30 days, and concluded that approval of the Stipulation was not appropriate, given claimant's request to withdraw from the agreement. Finally, the ALJ returned the matter to the Docketing Section of the Hearings

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<sup>1</sup> Claimant, now represented, also requested a hearing from the July 29, 2002 denial on September 4, 2002. (Hearings Division file).

Division for scheduling of a hearing “in the normal course.”<sup>2</sup> The order did not contain a statement explaining the parties’ rights of appeal pursuant to ORS 656.289(3). SAIF then requested Board review.

### CONCLUSIONS OF LAW AND OPINION

A final order is one which disposes of a claim so that no further action is required. *Price v. SAIF*, 296 Or 311, 315 (1984). A decision which neither denies the claim, nor allows it and fixes the amount of compensation, is not an appealable final order. *Lindamood v. SAIF*, 78 Or App 15, 18 (1986); *Mendenhall v. SAIF*, 16 Or App 136, 139 (1974).

Here, the ALJ’s August 27, 2002 order neither finally disposed of, nor allowed, the claim. Moreover, the order did not fix the amount of claimant’s compensation. Rather, the order was interim in nature. Specifically, the ALJ’s order vacated a prior ALJ’s approval of the parties’ Stipulation and Disputed Claim Settlement agreement, disapproved the Stipulation and Disputed Claim Settlement, and referred the matter to the Hearings Division’s docketing section for the scheduling of a hearing regarding SAIF’s denial.

As a result of the ALJ’s August 27, 2002 order, further proceedings will be required to determine claimant’s entitlement to and/or the amount of compensation; *i.e.*, a hearing regarding SAIF’s denial and any ancillary issues. Inasmuch as further action before the Hearings Division is required as a result of the ALJ’s order, we conclude that the order is not a final order. *See Bradley H. Bishop*, 48 Van Natta 1729 (1996); *Allen H. Howard*, 42 Van Natta 2706 (1990) (Referee’s order deferring hearing until after closure of aggravation claim not a final order).

Consequently, we hold that jurisdiction to consider this matter continues to rest with the Hearings Division. Any Board review of the procedural and substantive decisions reached by the ALJ(s) in this case must await issuance of the assigned ALJ’s eventual final order (assuming that a party timely seeks Board review of that final order).<sup>3</sup>

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<sup>2</sup> The hearing has now been set for October 30, 2002 with ALJ Hoguet.

<sup>3</sup> In other words, SAIF may renew its challenge to ALJ Marshall’s “Disapproval” interim order in any eventual appeal from the current ALJ’s final, appealable order.

Accordingly, the request for review is dismissed. Because jurisdiction to consider this matter continues to rest with the Hearings Division, this case is returned to ALJ Hoguet to proceed with the hearing, which is presently scheduled for October 30, 2002.

**IT IS SO ORDERED.**

Entered at Salem, Oregon on October 15, 2002