BRB Nos. 07-0948 BLA
and 07-0948 BLA-A

D.D.R.	)	
	)	
Claimant-Petitioner	)	
Cross-Respondent	)	
	)	
v.	)	
	)	
WORKMAN CONSTRUCTION, INCORPORATED	)	DATE ISSUED: 08/25/2008
	)	
and	)	
	)	
WEST VIRGINIA COAL WORKERS' PNEUMOCONIOSIS FUND	)	
	)	
Employer/Carrier-Respondents	)	
Cross-Petitioners	)	
	)	
DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR	)	
	)	
Party-in-Interest	)	DECISION and ORDER

Appeal of the Decision and Order Denying Benefits and the Ruling and Order on Motion for Reconsideration of Richard A. Morgan, Administrative Law Judge, United States Department of Labor.

Leonard Stayton, Inez, Kentucky, for claimant.

Christopher M. Hunter (Jackson Kelly PLLC), Charleston, West Virginia, for employer.

Helen H. Cox (Gregory F. Jacob, Solicitor of Labor; Rae Ellen Frank James, Acting Associate Solicitor; Michael J. Rutledge, Counsel for Administrative Litigation and Legal Advice), Washington, D.C., for the Director, Office of Workers' Compensation Programs, United States Department of Labor.

Before: DOLDER, Chief Administrative Appeals Judge, SMITH and HALL, Administrative Appeals Judges.

PER CURIAM:

Claimant appeals the Decision and Order Denying Benefits (Decision and Order) and the Ruling and Order on Motion for Reconsideration (Ruling) (2005-BLA-6132) of Administrative Law Judge Richard A. Morgan, rendered on a subsequent 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 administrative law judge credited claimant with at least thirty-one years of qualifying coal mine employment, and adjudicated this claim, filed on October 28, 2003, as a subsequent claim pursuant to the provisions at 20 C.F.R. §725.309(d).[1] The administrative law judge found that claimant's prior claim was denied for failure to establish the existence of a totally disabling respiratory impairment. However, he determined that the evidence developed since the previous denial established that claimant is totally disabled by a respiratory or pulmonary impairment, and thus demonstrated a change in an applicable condition of entitlement pursuant to 20 C.F.R. §725.309(d).[2] Upon considering entitlement on the merits, however, the administrative law judge found that claimant did not establish the existence of pneumoconiosis pursuant to 20 C.F.R. §718.202(a) or disability causation pursuant to 20 C.F.R. §718.204(c).[3] Accordingly, benefits were denied.

[1] The instant subsequent claim, filed on October 28, 2003, is claimant's sixth claim for benefits. Director's Exhibit 7. The administrative law judge found that claimant's most recent previous claim, filed on April 19, 2001, had been finally denied on January 9, 2002 for failure to establish total disability due to pneumoconiosis, although the existence of pneumoconiosis had been established. Director's Exhibit 5; Decision and Order at 1-2, 16.

[2] Where a miner files a claim for benefits more than one year after the denial of a previous claim, the subsequent claim must also be denied unless the administrative law judge finds that "one of the applicable conditions of entitlement . . . has changed since the date upon which the order denying the prior claim became final." 20 C.F.R. §725.309(d); *White v. New White Coal Co*., 23 BLR 1-1, 1-3 (2004); *see also Consolidation Coal Co. v. Williams*, 453 F.3d 609, 23 BLR 2-345 (4th Cir. 2006). The applicable conditions of entitlement "shall be limited to those conditions upon which the prior claim was based." 20 C.F.R. §725.309(d)(2).

[3] The Board will apply the law of the United States Court of Appeals for the Fourth Circuit, as claimant was last employed in the coal mining industry in West

On appeal, claimant challenges the administrative law judge's evaluation of the relevant evidence in finding that claimant failed to establish the existence of pneumoconiosis and total disability due to pneumoconiosis pursuant to 20 C.F.R. §§718.202(a)(1), (4), 718.204(c). Further, claimant contends that because employer was incorrectly designated as the responsible operator herein, the administrative law judge should have dismissed employer as a party to this action, and assigned liability for the payment of benefits to the Black Lung Disability Trust Fund. Employer responds, urging affirmance of the denial of benefits, and cross-appeals, challenging the administrative law judge's finding that employer waived its right to contest its designation as the responsible operator. The Director, Office of Workers' Compensation Programs, has filed a limited response, urging the Board to affirm the administrative law judge's disposition of the responsible operator issue.

The Board's scope of review is defined by statute. The administrative law judge's Decision and Order must be affirmed if it is rational, supported by substantial evidence, and in accordance with applicable law. 33 U.S.C. §921(b)(3), as incorporated by 30 U.S.C. §932(a); *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

Initially, both employer and claimant challenge the administrative law judge's finding that employer waived the right to contest its designation as the responsible operator by failing to do so in a timely fashion before the district director, and further challenge his refusal to dismiss employer as a party to this action, notwithstanding his finding that employer was incorrectly designated as the responsible operator herein. With respect to this issue, employer relies on the arguments raised in claimant's brief on appeal.[4] In support of his assignment of error, claimant contends that the district director misrepresented the law in concluding that claimant worked for employer for a full calendar year, *i.e.*, in his Proposed Decision and Order, the district director indicated that the time during which claimant drew workers' compensation benefits counted as coal mine employment, when the record contains no evidence that claimant was retained on employer's payroll for that period. Claimant therefore asserts that "this misrepresentation of the law . . . constitutes an extraordinary circumstance such that [employer] should have

---

Virginia. *See Shupe v. Director, OWCP*, 12 BLR 1-200 (1989)(*en banc*); Director's Exhibits 1, 3, 14; Hearing Transcript at 24.

[4] Employer submits: "[b]ecause Claimant raised the responsible operator issue before this Board, employer opted not to file a separate Petition for Review and Brief." Employer's Response Brief at 3-4; *see* Director's letter of February 21, 2008.

been able to [subsequently] contest its designation as the responsible operator [before the administrative law judge]." Claimant's Brief at 13-14. Claimant's arguments lack merit.

We first note that, pursuant to 20 C.F.R. §725.465(b), an administrative law judge shall not dismiss the operator designated as the responsible operator by the district director, except upon motion or written agreement of the Director. The Director submits that because employer affirmatively accepted liability as the responsible operator before the district director, it waived its right to contest the issue later before the administrative law judge.[5] We agree. The record reflects that employer accepted the district director's preliminary determination that it was the responsible operator on November 10, 2004. [6] Director's Exhibit 38. Employer subsequently requested a hearing on the merits of entitlement, but did not contest the responsible operator issue. *See* Director's Exhibits 41, 46. The Director correctly maintains that any uncontested issue may not be considered by the administrative law judge unless the issue was not reasonably ascertainable before the district director. In the present case, however, employer's liability as the responsible operator was a fundamental issue since its initial identification by the district director. *See* 20 C.F.R. §725.463(a), (b); *Thornton v. Director, OWCP*, 8 BLR 1-277 (1985); Director's Exhibit 35. Here, employer obtained new counsel for the hearing, who stated incorrectly that the responsible operator issue was contested. The administrative law judge acknowledged employer's incorrect identification as the responsible operator. However, the administrative law judge concluded that employer had "waived the right to contest its designation by not doing so in a timely fashion before the district director as required by 20 C.F.R. §725.412 . . . [t]he named operator accepted the designation and may not now renege on that acceptance, although it was incorrectly determined." Decision and Order at 7; Ruling at 2.

The administrative law judge's disposition of this issue was proper. A change in counsel does not vitiate affirmative pleadings and concession of liability as transpired

[5] In this connection, the Director points out that employer's new counsel asserted at the hearing that the responsible operator issue was contested, when in fact the prior counsel for employer had withdrawn its controversion of the issue before the district director. *See* 20 C.F.R. §§725.412, 725.463(a).

[6] The purpose of requiring the designated responsible operator to agree or disagree with its designation within thirty days after the district director's issuance of a schedule pursuant to 20 C.F.R. §§725.410, 725.412 is to ascertain the positions of potentially liable operators while the case is pending before the district director, especially given the fact that potentially liable operators other than the designated responsible operator will no longer be parties once a case has been referred to the Office of Administrative Law Judges. *See* 65 Fed. Reg. 79,999-80,000 (Dec. 20, 2000).

here. Moreover, claimant may not now urge a mistake on the part of the district director, whether of fact or law, in order to resurrect this issue. Claimant and employer were both represented by counsel, and could have ascertained information, and argued their positions regarding application of the statute and regulations. Moreover, employer was not compelled to accept responsible operator status, rather than litigate the issue. Consequently, we affirm the administrative law judge's finding that employer waived its right to contest its designation as the responsible operator herein. *See Thornton*, 8 BLR at 1-279, 1-280.

Turning to the merits, in order to establish entitlement to benefits in a living miner's claim filed pursuant to 20 C.F.R. Part 718, claimant must establish the existence of pneumoconiosis, that the pneumoconiosis arose out of coal mine employment, and that the pneumoconiosis is totally disabling. 20 C.F.R. §§718.3, 718.202, 718.203, 718.204; *Gee v. W.G. Moore and Sons*, 9 BLR 1-4, 1-5 (1986)(*en banc*). Failure to establish any one of these elements precludes entitlement. *Anderson v. Valley Camp of Utah, Inc*., 12 BLR 1-111, 1-112 (1989); *Trent v. Director, OWCP*, 11 BLR 1-26, 1-27 (1987).

When considering whether the x-ray evidence was sufficient to establish the existence of pneumoconiosis at Section 718.202(a)(1), the administrative law judge listed each individual x-ray, indicated the number of positive or negative interpretations of each film, and compared the qualifications of the readers. Decision and Order at 8-11, 19. Of the x-ray evidence considered in the prior claims, consisting of twelve readings of five x-rays taken between December 1991 and September 2001, the administrative law judge observed that, with the single exception of the December 1991 x-ray, "most readers and the better qualified readers found those X-rays negative for CWP." Decision and Order at 9-10, 19. He therefore found the previously submitted x-ray evidence insufficient to establish the existence of pneumoconiosis.

With respect to the four newly-submitted x-rays, the administrative law judge found that two dually qualified Board-certified radiologists and B readers, Drs. Alexander and Patel, classified the films as positive for pneumoconiosis, "but three (including the more highly qualified Drs. Wiot and Wheeler) found them negative." Decision and Order at 9, 19.[7] Accordingly, based on the preponderance of negative

[7] Section 718.202(a)(1) provides that where two or more x-ray reports are in conflict, consideration shall be given to the radiological qualifications of the physicians interpreting such x-rays. 20 C.F.R. §718.202(a)(1). Here, the record reflects that Drs. Wiot and Wheeler are also dually qualified as both B readers and Board-certified radiologists. *See* Employer's Exhibit 9; Director's Exhibit 22.

The administrative law judge noted: "In addition to being dual-qualified readers, Drs. Wheeler and Wiot are professors of radiology [respectively] at Johns Hopkins

interpretations by the best qualified physicians, the administrative law judge found that the three films of December 1, 2005, May 5, 2004, and January 26, 2004 were negative for pneumoconiosis. Decision and Order at 19. Finally, he characterized the remaining April 10, 2006 x-ray as "in equipoise, given the limited information about Dr. Willis'[s] qualifications," and concluded that the x-ray evidence did not establish the existence of pneumoconiosis. Decision and Order at 19, 20.

Claimant challenges the administrative law judge's weighing of the x-ray evidence under Section 718.202(a)(1), first asserting that the January 26, 2004 x-ray should have been found positive for the existence of pneumoconiosis, "based upon a majority of the qualified readers."[8] Claimant's Brief at 15. With respect to the May 5, 2004, December 1, 2005, and April 10, 2006 x-rays, claimant submits that Dr. Alexander's positive interpretations should have been accorded determinative weight as he is the only physician who read all four of the x-rays. Alternatively, claimant asserts that, even if the x-rays of May 5, 2004, December 1, 2005, and April 10, 2006 are in equipoise, the positive January 26, 2004 x-ray should have been found sufficient to establish the existence of pneumoconiosis.[9]

University and the University of Cincinnati. Dr. Wiot also helped write the standards for the ILO classification system…[I]n contrast, Dr. Alexander is a staff radiologist at a local hospital who had served as an assistant professor at the University of Maryland for two years. Dr. Patel has a limited resume and he serves as a diagnostic radiologist at the local hospital." Decision and Order at 19; s*ee Worhach v. Director, OWCP*, 17 BLR 1-105, 1-108 (1993).

A "B reader" is a physician who has demonstrated proficiency in classifying x-rays according to the ILO-U/C standards by successful completion of an examination established by the National Institute for Occupational Safety and Health. *See* 20 C.F.R. §718.202(a)(1)(ii)(E); 42 C.F.R. §37.51; *Mullins Coal Co. Inc. of Va. v. Director, OWCP*, 484 U.S. 135, 145 n.16, 11 BLR 2-1, 2-6 n.16 (1987), *reh'g denied*, 484 U.S. 1047 (1988); *Roberts v. Bethlehem Mines Corp.*, 8 BLR 1-211 (1985). A Board-certified radiologist is a physician who has been certified by the American Board of Radiology as having particular expertise in the field of radiology.

[8] The January 26, 2004 x-ray was interpreted as "1/0" by Drs. Alexander and Patel, and as "0" by Dr. Wheeler. *See* Decision and Order at 9.

[9] Claimant does not contest the administrative law judge's determination that the x-ray evidence filed in his previous claims was negative for the existence of pneumoconiosis. Decision and Order at 10, 19.

Claimant's arguments are without merit. The administrative law judge properly considered both the quantity of x-ray interpretations and the relative qualifications of the physicians who performed them. *See Sterling Smokeless Coal Co. v. Akers*, 131 F.3d 438, 21 BLR 2-269 (4th Cir. 1997); *Adkins v. Director, OWCP*, 958 F.2d 49, 52, 16 BLR 2-61, 2-66 (4th Cir. 1992). The administrative law judge reasonably accorded more weight to the negative interpretations of Drs. Wiot and Wheeler, based on the physicians' superior professional credentials, over the positive readings of Drs. Alexander and Patel, since all four are dually qualified readers. Decision and Order at 19. Contrary to claimant's assertion, the administrative law judge was not required to defer to the numerical count of readings, but properly conducted a qualitative and quantitative analysis of the evidence. *See Wilt v. Wolverine Mining Co.*, 14 BLR 1-70 (1990). His determination that the three x-rays of December 1, 2005, May 5, 2004 and January 26, 2004 are negative for the existence of pneumoconiosis is therefore rational and accords with law. *See Adkins*, 958 F.2d at 52, 16 BLR at 2-66; *Trent v. Director, OWCP*, 11 BLR 1-26 (1987); *Dixon v. North Camp Coal Co.*, 8 BLR 1-344 (1985); *Roberts v. Bethlehem Mines Corp.*, 8 BLR 1-211 (1985).

Moreover, there is no requirement that an administrative law judge credit the readings of a physician because he or she reviewed multiple x-rays. *J.V.S. v. Arch of West Virginia/Apogee Coal Co.*, BLR , BRB Nos. 07-0812 BLA and 07-0812 BLA-A (July 30, 2008). While remarking that Dr. Alexander, who found all four of the x-rays to be positive, had an "opportunity to see the progression of any disease process over a two-year period," a point urged by claimant on appeal, the administrative law judge noted as well that only one of Dr. Alexander's readings was corroborated by another dually-qualified reader. Decision and Order at 19. Further, the administrative law judge observed that Dr. Wheeler "likewise had the opportunity to review x-rays from 2001 through 2004 and found them negative." *Id*. Accordingly, the administrative law judge rationally determined that this factor was outweighed by contrary evidence.

Finally, the administrative law judge reasonably characterized the two conflicting interpretations of the April 10, 2006 x-ray as being in equipoise. Decision and Order at 19-20. In this connection, we note that the administrative law judge accurately reflected Dr. Willis's qualifications as a B reader and Board–certified radiologist. *See* Decision and Order at 9; *see also* Employer's Exhibit 1. Moreover, claimant concedes that the interpreting physicians of the April 10, 2006 x-ray have "relatively equal qualifications," and does not otherwise challenge the summary of Dr. Alexander's professional credentials. *See* Claimant's Brief at 16. We therefore conclude that the administrative law judge validly exercised his discretion in determining that the conflicting x-ray readings were evenly balanced. Accordingly, contrary to claimant's assertion, the administrative law judge validly concluded that the x-ray of April 10, 2006 fails to satisfy his burden of establishing the existence of pneumoconiosis at Section 718.202(a)(1) by a

preponderance of the evidence. *See Director, OWCP v. Greenwich Collieries* [*Ondecko*], 512 U.S. 267, 18 BLR 2A-1 (1994).

Based on the foregoing, we conclude that the administrative law judge rationally analyzed the x-ray evidence of record. As substantial evidence supports his determination that the x-ray evidence failed to establish the presence of pneumoconiosis under Section 718.202(a)(1), it is therefore affirmed. *See Ondecko*, 512 U.S. at 281, 18 BLR at 2A-12.

Next, in evaluating the medical opinions respecting the existence of pneumoconiosis under 20 C.F.R. §718.202(a)(4), the administrative law judge reviewed the evidence submitted in claimant's prior claims. He determined that the basis for Dr. Hussain's 2001 diagnosis of coal workers' pneumoconiosis was contradicted by the opinions of better qualified physicians. Further, he found that the contrary opinion of Dr. Zaldivar was more consistent with the "test results and negative x-ray." Decision and Order at 21. Accordingly, he concluded that the evidence submitted in the prior claims did not establish the existence of pneumoconiosis. *Id*.

Addressing the medical reports admitted in the instant claim, the administrative law judge noted that two of the three physicians, Drs. Crisalli and Zaldivar, "who submitted extremely comprehensive reports and deposition testimony…in which they reviewed all the recent and much of the past claims evidence," did not diagnose clinical or legal pneumoconiosis. Decision and Order at 21. Rather, they agreed that claimant suffers from cigarette-induced emphysema, and concluded that neither the radiological changes nor the pulmonary function test results were typical of coal workers' pneumoconiosis. By comparison, the administrative law judge determined that Dr. Rasmussen, who diagnosed coal workers' pneumoconiosis and chronic obstructive pulmonary disease attributable to both smoking and coal dust exposure, with the latter constituting the major contributing factor, "only had the limited benefit of his own examination and test results." *Id*. Additionally, Dr. Rasmussen included a "markedly understated smoking history," and lacked the benefit of the tests results reviewed by Drs. Zaldivar and Crisalli, which indicated that claimant's smoking habit was significant. *Id*. Further, the administrative law judge noted that Dr. Rasmussen, although "made aware of the left diaphragm problem...did not attribute any part of the miner's affliction to it [as did Drs. Crisalli and Zaldivar], . . . nor did he assess it." Decision and Order at 21; Employer's Exhibit 1 at 21, 22; Director's Exhibit 20 at 18-19. Finding Dr. Crisalli's examination and report the most recent, based on "the most up-to-date information," and characterizing it as "the most thorough and comprehensive," the administrative law judge accorded greatest weight to Dr. Crisalli's medical opinion. Decision and Order at 21.

Claimant assigns several errors to the administrative law judge's evaluation of the medical reports. First, claimant asserts that the medical opinions of Drs. Zaldivar and

Crisalli are not consistent or well reasoned. Claimant notes that Dr. Crisalli found a pulmonary impairment caused in part by smoking, and possibly due to paralysis of the left diaphragm. In contrast, claimant asserts that Dr. Zaldivar stated that the pulmonary impairment was caused by an abnormality in the left diaphragm. Next, claimant objects that neither physician adequately explained why claimant's coal mine employment history would not have contributed to his impairment. Finally, claimant submits that Dr. Rasmussen's opinion diagnosing coal worker's pneumoconiosis should have been credited to establish the existence of pneumoconiosis under Section 718.202(a)(4).

Claimant's contentions are without merit. The record reflects that while Dr. Rasmussen recorded a smoking history of one-half pack daily from 1974 to 2004, Dr. Zaldivar noted a "twenty-some-year one-pack per day" smoking history, and Dr. Crisalli relied on a current 20 pack year smoking history. Moreover, the administrative law judge noted that Dr. Crisalli's testing indicated claimant to be a current "heavy" smoker.[10] Decision and Order at 13. Accordingly, the administrative law judge properly identified and rationally resolved inconsistencies in the smoking history evidence, *see Trumbo v. Reading Anthracite Co*., 17 BLR 1-85, 1-89 (1993); *Maypray v. Island Creek Coal Co*., 7 BLR 1-683, 1-686 (1985), and permissibly accorded less weight to the opinion of Dr. Rasmussen because he relied on an inaccurate smoking history. *See Stark v. Director, OWCP*, 9 BLR 1-36, 1-37 (1986).

Next, the administrative law judge examined each medical opinion in light of its bases and the extent of underlying support for the respective diagnoses, and determined that Dr. Rasmussen's "analysis pales in comparison to the other two experts." Decision and Order at 21. The administrative law judge permissibly accorded more weight to Dr. Crisalli's opinion, noting that the physician reviewed medical evidence dating from 1977, s*ee Church v. Eastern Assoc. Coal Corp.*, 20 BLR 1-8 (1996), *aff'd in rel. part on recon*., 21 BLR 1-51 (1997); *see also* Employer's Exhibit 1, provided the most thorough and comprehensive medical opinion of record, *see Minnich v. Pagnotti Enterprises, Inc*., 9 BLR 1-89, 1-90 n.1 (1986), and demonstrated superior professional qualifications and supportive materials. *Wetzel v. Director, OWCP*, 8 BLR 1-139 (1985); *Burns v. Director, OWCP*, 7 BLR 1-597, 1-599 (1984). Correspondingly less weight was validly accorded Dr. Rasmussen's pulmonary evaluation because he failed to assess claimant's diaphragm condition, which was discussed by the other examining physicians, Drs. Crisalli and Zaldivar. *See generally Clark v. Karst-Robbins Coal Co*., 12 BLR 1-149 (1989)(*en banc*); *Fields v. Island Creek Coal Co.*, 10 BLR 1-19 (1987). Moreover,

[10] The administrative law judge found that claimant, born in 1944: "began smoking at age twenty-one, about half a pack per day, building up to a full pack in the earlier years. He 'cut back' about four years prior to the [January 25, 2007] hearing, at age 58…he currently smokes about half a pack per day." Decision and Order at 8; Hearing Transcript at 19-21.

claimant advances no challenge to the administrative law judge's findings regarding his smoking history, nor the specific reasons provided for crediting the opinions of Drs. Zaldivar and Crisalli over that of Dr. Rasmussen. Rather, claimant's arguments essentially urge a reweighing of the evidence, which is beyond the scope of the Board's review. *See Anderson v. Valley Camp of Utah, Inc*., 12 BLR 1-111, 1-112 (1989).

The administrative law judge permissibly exercised his discretion to evaluate and weigh the conflicting medical evidence, draw inferences and make findings thereon. *See Dempsey v. Sewell Coal Corp*., 23 BLR 1-47 (2004)(*en banc*); *Dillon v. Peabody Coal Co*., 11 BLR 1-113 (1988); *Wetzel v. Director, OWCP*, 8 BLR 139 (1985). We therefore conclude that the administrative law judge provided valid reasoning for his evaluation of Dr. Rasmussen's medical opinion, and his determination that the more probative opinion of Dr. Crisalli demonstrated that claimant failed to establish the existence of pneumoconiosis pursuant to Section 718.202(a)(4). Decision and Order at 23-24; *see generally Trumbo v. Reading Anthracite Co.*, 17 BLR 1-85 (1993); *Clark*, 12 BLR at 1-155; *Lucostic v. U.S. Steel Corp.*, 8 BLR 1-46, 1-47 (1985). Accordingly, we affirm the administrative law judge's finding that claimant failed to establish the existence of pneumoconiosis based on the medical opinion evidence at Section 718.202(a)(4), and his determination that claimant failed to meet his burden of proof to establish the existence of pneumoconiosis pursuant to Section 718.202(a). *See Ondecko,* 512 U.S. at 281, 18 BLR at 2A-1; *Island Creek Coal Co. v. Compton*, 211 F.3d 203, 22 BLR 2-162 (4th Cir. 2000).

Because substantial evidence supports the administrative law judge's conclusion that the evidence failed to establish the existence of pneumoconiosis pursuant to Section 718.202(a), an essential element of entitlement, we affirm the denial of benefits under 20 C.F.R. Part 718. *Anderson*, 12 BLR at 1-112; *Trent*, 11BLR at 1-27. Consequently, we need not address claimant's remaining contentions regarding the administrative law judge's findings regarding disability causation at Section 718.204(c). *Larioni v. Director, OWCP*, 6 BLR 1-1276, 1-1278 (1984).

Accordingly, the administrative law judge's Decision and Order Denying Benefits and Ruling and Order on Motion for Reconsideration are affirmed.

SO ORDERED.

_____
NANCY S. DOLDER, Chief
Administrative Appeals Judge

_____
ROY P. SMITH
Administrative Appeals Judge

_____
BETTY JEAN HALL
Administrative Appeals Judge