BRB No. 00-0488 BLA

DONALD E. GRIFFITTS	)	
	)	
Claimant-Petitioner	)	
	)	
v.	)	
	)	
SHAMROCK COAL COMPANY, INCORPORATED	)	DATE ISSUED:
	)	
Employer-Respondent	)	
	)	
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 of Donald W. Mosser, Administrative Law Judge, United States Department of Labor.

Edmond Collett, Hyden, Kentucky, for claimant.

Harold Rader, Manchester, Kentucky, for employer.

Before: HALL, Chief Administrative Appeals Judge, SMITH, Administrative Appeals Judge, and NELSON, Acting Administrative Appeals Judge.

PER CURIAM:

Claimant appeals the Decision and Order Denying Benefits (99-BLA-699) of Administrative Law Judge Donald W. Mosser 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 administrative law judge found that the parties stipulated to at least thirteen years of coal mine employment, and applied the regulations found at 20 C.F.R. Part 718. The administrative law judge found that claimant failed to establish the existence of pneumoconiosis at 20 C.F.R. §718.202(a) or total disability at 20 C.F.R. §718.204(c). Accordingly, benefits were denied. Claimant appeals, contending that the administrative law judge erred in failing to find the existence of pneumoconiosis arising from coal mine employment and total disability due to pneumoconiosis. Employer responds, urging affirmance of the administrative law judge's Decision and Order. The Director, Office of

Workers' Compensation Programs (the Director), is not participating in this appeal.

The Board's scope of review is defined by statute. If the findings of fact and conclusions of law of the administrative law judge are supported by substantial evidence, rational and consistent with applicable law, they are binding upon this Board and may not be disturbed. 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).

Claimant contends that the administrative law judge erred in failing to find that the x-ray evidence is sufficient to establish the existence of pneumoconiosis pursuant to Section 718.202(a)(1). We disagree. The evidence of record contains nine readings of six x-rays. Director's Exhibits 9, 22; Employer's Exhibit 1. Only the reading by Dr. Baker, a B reader, is positive for the existence of pneumoconiosis. The administrative law judge found that this film was reread as negative by Drs. Sargent and Barnett, who are both dually qualified as B readers and Board certified radiologists, and therefore permissibly accorded greater weight to their interpretations based on their superior qualifications. *Staton v. Norfolk & Western Railway Co.*, 65 F.2d 55, 19 BLR 2-271 (6th Cir. 1995); Director's Exhibit 9; Decision and Order at 6. As the remaining x-ray interpretations were all negative, the administrative law judge properly found the x-ray evidence negative for the existence of pneumoconiosis. *See Woodward v. Director, OWCP*, 991 F.2d 314, 17 BLR 2-77 (6th Cir. 1993). We therefore affirm the administrative law judge's finding that claimant failed to establish the existence of pneumoconiosis at Section 718.202(a)(1).

Claimant next contends that the administrative law judge erred in failing to find that the medical opinion evidence establishes the presence of pneumoconiosis at Section 718.202(a)(4). The evidence of record contains the opinions of two physicians, Drs. Baker and Broudy. Dr. Baker found coal workers' pneumoconiosis, while Dr. Broudy found no coal workers' pneumoconiosis. Employer's Exhibit 1; Director's Exhibit 9. The administrative law judge weighed the medical opinions and permissibly accorded greater weight to Dr. Broudy's opinion as it was better reasoned and more consistent with the medical evidence. Moreover, the administrative law judge also permissibly noted that Dr. Broudy was Board-certified in internal and pulmonary medicine. Decision and Order at 7; *Peabody v. Hill*, 123 F.2d 412, 21 BLR 1-192 (6th Cir. 1997); *Director, OWCP v. Rowe*, 710 F.2d 251 (6th Cir. 1983); *Seals v. Glen Coal Co.*, 19 BLR 1-80 (1995)(*en banc*)(Brown, J. concurring.); *Clark v. Karst-Robbins Coal Co.*, 12 BLR 1-149 (1989)(*en banc*); *Dillon v. Peabody Coal Co.*, 11 BLR 1-113 (1988); *Fields v. Island Creek Coal Co.*, 10 BLR 1-19 (1987); *Wetzel v. Director, OWCP*, 8 BLR 1-139 (1985); *Lucostic v. U. S. Steel Corp.*, 8

The administrative law judge further found that claimant failed to establish the existence of pneumoconiosis at Section 718.202(a)(2) and (3), a finding which we affirm as unchallenged on appeal. *Parulis v. Director, OWCP*, 15 BLR 1-28 (1991); *Skrack v. Island Creek Coal Co.*, 6 BLR 1-710 (1983).

BLR 1-46 (1985). We, therefore, affirm the administrative law judge's finding that the medical evidence is insufficient to establish the existence of pneumoconiosis at Section 718.202(a)(4).

As claimant has failed to establish the existence of pneumoconiosis under any subsection at Section 718.202(a), we affirm the administrative law judge's finding that claimant has failed to establish the existence of pneumoconiosis, an essential element of entitlement, and affirm the denial of benefits. *Adams v. Director, OWCP*, 886 F.2d 818, 13 BLR 2-52 (6th Cir. 1989); *Trent v. Director, OWCP*, 11 BLR 1-26 (1987); *Gee v. W.G. Moore & Sons*, 9 BLR 1-4 (1986)(*en banc*). As we affirm the administrative law judge's denial of benefits on these grounds, we need not consider claimant's arguments at Section 718.204(c).

Accordingly, the Decision and Order Denying Benefits of the administrative law judge is affirmed.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

MALCOLM D. NELSON, Acting
Administrative Appeals Judge