

BRB No. 02-0660 BLA

HELEN C. WESOLOWSKY)
(Widow of FRANK T. WESOLOWSKY)
)
 Claimant-Petitioner))
)
 v.)
)
)
 U.S. STEEL MINING COMPANY)
) 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 Michael P. Lesniak, Administrative Law Judge, United States Department of Labor.

Daniel L. Chunko (Chunko Law Firm), Washington, Pennsylvania, for claimant.

Gerald R. O'Brien, Jr. (Burns, White & Hickton, LLC), Pittsburgh, Pennsylvania, for employer.

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

PER CURIAM:

Claimant¹ appeals the Decision and Order - Denying Benefits (01-BLA-0972) of Administrative Law Judge Michael P. Lesniak on a survivor's claim filed pursuant

¹ Claimant, Helen C. Wesolowsky, is the widow of Frank T. Wesolowsky, the miner, who died on January 4, 2000. Director's Exhibit 7. Claimant filed her survivor's claim for benefits on July 5, 2000. Director's Exhibit 1.

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).² Adjudicating the claim pursuant to 20 C.F.R. Part 718, the administrative law judge found that the miner worked in qualifying coal mine employment for thirty-seven years and six months, but found that the evidence of record was insufficient to establish the existence of pneumoconiosis pursuant to 20 C.F.R. §718.202(a) and that the miner's death was due to pneumoconiosis pursuant to 20 C.F.R. §718.205(c). Accordingly, benefits were denied.

On appeal, claimant generally challenges the administrative law judge's findings that the evidence failed to establish the existence of pneumoconiosis and that the miner's death was due to pneumoconiosis. Employer responds, urging affirmance of the denial of benefits. The Director, Office of Workers' Compensation Programs, as party-in-interest, has filed a letter indicating that he is not participating in this appeal.

The Board's scope of review is defined by statute. If the administrative law judge's findings of fact and conclusions of law are supported by substantial evidence, are rational, and are consistent with the applicable law, they are binding upon this Board and may not be disturbed. 33 U.S.C. §921(b)(3), as incorporated into the Act by 30 U.S.C. §932(a); *O'Keeffe v. Smith, Hinchman and Grylls Associates, Inc.*, 380 U.S. 359 (1965).

Claimant requests that the Board review the record in its entirety and "accord the benefit of the weight of the medical evidence to Claimant." Claimant's Written Brief in Support of Her Appeal at 4. However, claimant does not delineate how the administrative law judge erred in his analysis of the medical evidence of record relevant to Sections 718.202(a) and 718.205(c) and fails to specify any factual or legal error in the administrative law judge's findings or to brief her allegations in terms of relevant law.

It is well established that a party challenging the administrative law judge's decision must demonstrate with some degree of specificity the manner in which substantial evidence precludes the denial of benefits or why the administrative law judge's decision is contrary to law. *Cox v. Benefits Review Board*, 791 F.2d 445, 446, 9 BLR 2-46, 2-49 (6th Cir. 1986); *Sarf v. Director, OWCP*, 10 BLR 1-119 (1987); *Fish v. Director, OWCP*, 6 BLR 1-107 (1983). Because claimant fails to state

² The Department of Labor has amended the regulations implementing the Federal Coal Mine Health and Safety Act of 1969, as amended. These regulations became effective on January 19, 2001, and are found at 20 C.F.R. Parts 718, 722, 725, and 726 (2002). All citations to the regulations, unless otherwise noted, refer to the amended regulations.

with specificity why the administrative law judge's conclusions are contrary to law and has not otherwise raised any allegations of error under Sections 718.202 and 718.205, she fails to provide a basis upon which the Board can review the administrative law judge's findings. Moreover, the Board is not empowered to reweigh the evidence nor substitute its inferences for those of the administrative law judge. *Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111, 1-113 (1989); *Worley v. Blue Diamond Coal Co.*, 12 BLR 1-20, 1-23 (1988). Inasmuch as claimant offers no specific legal or factual challenge to the administrative law judge's findings, we affirm the administrative law judge's findings that claimant failed to establish the existence of pneumoconiosis and that the miner's death was due to or hastened by pneumoconiosis pursuant to Sections 718.202(a) and 718.205(c).

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

SO ORDERED.

NANCY S. DOLDER, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

PETER A. GABAUER, Jr.
Administrative Appeals Judge