

BRB No. 02-0195 BLA

RUTH WILLIAMS ELDRIDGE)	
(Widow of CHESTER ELDRIDGE))	
)	
Claimant-Respondent)	
)	
v.)	
)	
LEWIS COAL COMPANY)	
)	
and)	
)	
OLD REPUBLIC INSURANCE COMPANY)	DATE ISSUED:
)	
Employer/Carrier-)	
Petitioners)	
)	
)	
DIRECTOR, OFFICE OF WORKERS')	
COMPENSATION PROGRAMS, UNITED)	
STATES DEPARTMENT OF LABOR)	
)	
Party-In-Interest)	DECISION and ORDER

Appeal of the Decision and Order on Remand - Awarding Benefits of Paul H. Teitler, Administrative Law Judge, United States Department of Labor.

Jane Winkler Dyche, London, Kentucky, for claimant.

Tab R. Turano (Greenberg Traurig LLP), Washington, D.C., for employer.

Before: SMITH, McGRANERY, and GABAUER, Administrative Appeals Judges.

PER CURIAM:

Employer appeals the Decision and Order on Remand - Awarding Benefits (1997-BLA-0564) of Administrative Law Judge Paul H. Teitler awarding benefits 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).¹ This case is before the Board for the third time.² On remand, the administrative law judge found that the evidence of record establishes that the miner's death was due to pneumoconiosis pursuant to 20 C.F.R. §718.205(c). Accordingly, benefits were awarded. On appeal, employer contends that the administrative law judge erred in finding that claimant established that the miner's death was due to pneumoconiosis

¹ 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.

²In its previous decision, the Board held that the administrative law judge failed to provide the necessary analysis to find that the miner's death was due to pneumoconiosis pursuant to Section 718.205(c), in accordance with the standard of the United States Court of Appeals for the Sixth Circuit in *Brown v. Rock Creek Mining Co., Inc.*, 996 F.2d 812, 814 17 BLR 2-135, 2-140 (6th Cir. 1993), holding that pneumoconiosis is a substantial contributing cause of death if it hastens death. Therefore, the Board vacated the administrative law judge's finding that claimant established that the miner's death was due to pneumoconiosis pursuant to Section 718.205(c) and remanded the case to the administrative law judge to reconsider the evidence and to provide adequate rationale for his weighing of the evidence. *Eldridge v. Lewis Coal Co.*, BRB No. 99-1061 (July 14, 2000)(unpub.).

pursuant to 20 C.F.R. §718.205(c). Claimant responds urging affirmance of the administrative law judge's Decision and Order. The Director, Office of Workers' Compensation Programs (the Director), has indicated that he will not participate on 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 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'Keefe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

After consideration of the administrative law judge's Decision and Order, the arguments on appeal, and the evidence of record, we conclude that the Decision and Order of the administrative law judge is supported by substantial evidence and contains no reversible error. Employer contends that the record contains no evidence regarding the severity of the miner's coal worker's pneumoconiosis or any reliable evidence linking the miner's death to pneumoconiosis. Employer's Brief at 9. Employer argues that contrary to the administrative law judge's finding, the medical records only diagnose pneumoconiosis, along with other respiratory ailments, but do not provide the link between pneumoconiosis and the miner's death.

In reconsidering the medical records, the administrative law judge summarized medical findings from the miner's hospitalizations between December 1995 to June 1996, and found that the records demonstrate that the miner's pulmonary condition was deteriorating despite treatment. Decision and Order at 3. The administrative law judge found that the medical records included several statements that the miner's prognosis was guarded due to his serious pulmonary problems and found that these statements, made during the miner's last six months of life, "lend strong support to Dr. Dineen's finding that pneumoconiosis, which was consistently diagnosed in the medical records, was a factor in the miner's ultimate death as expected by the medical records." *Id.* The administrative law judge determined that there is no contradictory evidence of record to establish that the miner's pneumoconiosis did not contribute to or hasten death. The administrative law judge determined that Dr. Dineen's statement on the death certificate was more than a conclusory statement, and was well documented and well reasoned as supported by the medical records. The administrative law judge concluded that Dr. Dineen had relevant qualifications and personal knowledge of the miner's condition which enabled him to assess the cause of death, and thus, under the "unique circumstances" of this case, found that Dr. Dineen's uncontradicted statement on

the death certificate, that pneumoconiosis was a significant condition contributing to death, is sufficient to establish that pneumoconiosis was a substantially contributing cause leading to the miner's death pursuant to Section 718.205(c)(2).

Contrary to employer's contentions, the administrative law judge complied with our instructions on remand to provide an adequate rationale for his findings. We defer to the administrative law judge's role as fact-finder and affirm his determination that the hospital records lend "strong support" to Dr. Dineen's statement that pneumoconiosis was a factor in the miner's ultimate death. Decision and Order at 3. Furthermore, we defer to the administrative law judge's discretion in finding that Dr. Dineen's statement on the death certificate, that pneumoconiosis contributed to the miner's death, is reasoned and documented, and "is relevant evidence that a reasonable person would accept as adequate, under the unique circumstances of this case, to establish pneumoconiosis was a substantially contributing cause or factor leading to the miner's death." See *Clark v. Karst-Robbins Coal Co.*, 12 BLR 1-149 (1989)(*en banc*); *Lucostic v. United States Steel Corp.*, 8 BLR 1-46 (1985); *Peskie v. United States Steel Corp.*, 8 BLR 1-126 (1985); Decision and Order at 3. Because the administrative law judge has offered sound reasons for crediting Dr. Dineen's uncontradicted statement, based on the medical evidence submitted during the miner's final months of life and Dr. Dineen's treatment of the miner during his final hospitalization, substantial evidence supports his decision and the Board is not authorized to overturn it. See *Youghioghney Ohio Coal Co. v. Webb*, 49 F.3d 244, 19 BLR 2-123 (6th Cir. 1995). As the Sixth Circuit recently observed, "we recognize that the record may permit an alternative conclusion, but we also respect and defer to the Administrative Law Judge's authority in the finding of facts." *Peabody Coal Co. v. Groves*, 277 F.3d 829, 836, 22 BLR 2-320 (6th Cir. 2002).

The administrative law judge is empowered to weigh the medical evidence and to draw his own inferences therefrom, see *Maypray v. Island Creek Coal Co.*, 7 BLR 1-683 (1985), and the Board may not reweigh the evidence or substitute its own inferences on appeal. See *Clark, supra*; *Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111 (1988); *Worley v. Blue Diamond Coal Co.*, 12 BLR 1-20 (1988). Consequently, we affirm the administrative law judge's finding that claimant established that the miner's death was due to pneumoconiosis pursuant to Section 718.205(c)(2).

Accordingly, the administrative law judge's Decision and Order on Remand - Awarding Benefits is affirmed.

SO ORDERED.

ROY P. SMITH
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge

PETER A. GABAUER, Jr.
Administrative Appeals Judge