

BRB No. 90-1912 BLA

HERMAN C. BANDY)
)
 Claimant-Petitioner)
)
 v.)
)
 CONSOLIDATION COAL 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 on Remand of Paul H. Teitler,
Administrative Law Judge, United States Department of Labor.

Herman C. Bandy, Cedar Bluff, Virginia, pro se.

Jennifer S. Smart (Jackson & Kelly), Lexington, Kentucky, for employer.

Before: SMITH and DOLDER, Administrative Appeals Judges, LAWRENCE,
Administrative Law Judge.*

PER CURIAM:

Claimant appeals, without the assistance of counsel, the Decision and Order on Remand (84-BLA-5671) of Administrative Law Judge Paul H. Teitler denying 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).

*Sitting as a temporary Board member by designation pursuant to the Longshore and Harbor Workers' Compensation Act as amended in 1984, 33 U.S.C. §921(b)(5)(Supp. V 1987).

In an appeal by a claimant proceeding without the assistance of counsel, the Board considers the issue raised to be whether the decision below is supported by substantial evidence. McFall v. Jewell Ridge Coal Corp., 12 BLR 1-176 (1989); Stark v. Director, OWCP, 9 BLR 1-36 (1986). The administrative law judge's Decision and Order must be affirmed if it is supported by substantial evidence, is rational, and is in accordance with 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).

After careful consideration of the evidence of record, we conclude that the Decision and Order on Remand of the administrative law judge is supported by substantial evidence and that any error therein is harmless. The administrative law judge on this record properly found that claimant did not establish total disability due to pneumoconiosis pursuant 20 C.F.R. §718.204 and that any disability was as a result of heart disease unrelated to coal mine employment. See Decision and Order on Remand at 10; Scott v. Mason Coal Co., 14 BLR 1-37 (1990); Lafferty v. Cannelton Industries, Inc., 12 BLR 1-190 (1989); Tanner v. Freeman United Coal Co., 10 BLR 1-85 (1987); Mabe v. Bishop Coal Co., 9 BLR 1-67 (1986); Kuchwara v. Director, OWCP, 7 BLR 1-167 (1984); Fuller v. Gibraltar Coal Corp. and Old Republic Insurance Companies, 6 BLR 1-1291 (1984); Horn v. Jewell Ridge Coal Corp., 6 BLR 1-933 (1984). The administrative law judge's findings and inferences are supported by substantial evidence; we may not substitute our judgement. Peabody Coal Co. v. Benefits Review Board, 560 F.2d 797 (7th Cir. 1977).

Accordingly, the Decision and Order on Remand denying benefits is affirmed. See 33 U.S.C. §921(b)(3), as incorporated by 30 U.S.C. §932(a); O'Keeffe, supra.

SO ORDERED.

ROY P. SMITH,
Administrative Appeals Judge

NANCY S. DOLDER
Administrative Appeals Judge

LEONARD N. LAWRENCE
Administrative Law Judge