

BRB No. 95-1372 BLA

KENNETH L. SPURLOCK)
)
 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 of Ainsworth H. Brown,
Administrative Law Judge, United States Department of Labor.

James E. Estep (Estep & Estep), Tazewell, Tennessee, for claimant.

Sannie L. Overly (Jackson & Kelly), Lexington, Kentucky, for
employer.

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

PER CURIAM:

Claimant¹ appeals the Decision and Order (94-BLA-0835) of Administrative
Law Judge Ainsworth H. Brown denying benefits on a claim filed pursuant to the

¹Claimant is Kenneth L. Spurlock, the miner, who filed a claim for benefits on July
14, 1992. Director's Exhibit 1.

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 accepted the parties' stipulation that claimant has fifteen and one-quarter years of qualifying coal mine employment, and found that claimant failed to establish the existence of pneumoconiosis pursuant to 20 C.F.R. §718.202(a). Accordingly, benefits were denied.

On appeal, claimant generally contends that he is entitled to benefits. Employer responds, urging affirmance of the administrative law judge's denial of benefits. The Director, Office of Workers' Compensation Programs (the Director), has declined to participate 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 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).

The Board is not authorized to undertake a *de novo* adjudication of the claim. To do so would upset the carefully allocated division of authority between the administrative law judge as the trier-of-fact and the Board as a reviewing tribunal. 20 C.F.R. §802.301(a); *Sarf v. Director, OWCP*, 10 BLR 1-119 (1987). As we have emphasized previously, the Board's circumscribed scope of review requires that a party address the Decision and Order below with specificity and demonstrate that substantial evidence does not support the result reached or that the Decision and Order is contrary to law. 20 C.F.R. §802.211(b); *Cox v. Director, OWCP*, 791 F.2d 445, 9 BLR 2-46 (6th Cir. 1986), *aff'g* 7 BLR 1-610 (1984); *Slinker v. Peabody Coal Co.*, 6 BLR 1-465 (1983); *Fish v. Director, OWCP*, 6 BLR 1-107 (1983); *Sarf, supra*. Unless the party identifies errors and briefs its allegations in terms of the relevant law and evidence, the Board has no basis upon which to review the decision. See *Sarf, supra*; *Fish, supra*.

In this case, other than generally asserting that certain positive x-ray readings and medical opinions are sufficient to establish the existence of pneumoconiosis pursuant to Section 718.202(a), see Claimant's Brief at 7-12, claimant has failed to identify any errors made by the administrative law judge in his evaluation of the evidence and applicable law pursuant to 20 C.F.R. Part 718. As claimant's counsel has failed to raise or brief any issues arising from the administrative law judge's Decision and Order denying benefits, the Board has no basis upon which to review the decision. Thus, we affirm the administrative law judge's findings pursuant to Section 718.202(a). Inasmuch as claimant has failed to establish the existence of pneumoconiosis, a requisite element of entitlement pursuant to Part 718, see *Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111 (1989); *Perry v. Director, OWCP*, 9 BLR 1-1 (1986)(*en banc*), we affirm the administrative law judge's denial of benefits.

Accordingly, the administrative law judge's Decision and Order denying benefits is affirmed.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

NANCY S. DOLDER
Administrative Appeals Judge