



BRB No. 24-0185 BLA

LOUIS V. DEGOL)
)
 Claimant-Respondent)
)
 v.)
)
 COONEY BROTHERS COAL COMPANY)
)
 and)
)
 ROCKWOOD CASUALTY INSURANCE)
 COMPANY)
)
 Employer/Carrier-)
 Respondents)
)
 DIRECTOR, OFFICE OF WORKERS')
 COMPENSATION PROGRAMS, UNITED)
 STATES DEPARTMENT OF LABOR)
)
 Petitioner)

NOT-PUBLISHED

DATE ISSUED: 01/20/2026

DECISION and ORDER

Appeal of the Decision and Order Denying Director’s Motion for Reconsideration of Order Dismissing Employer as Responsible Operator, Awarding Benefits, and Remanding Claim to District Director for Payment of Drew A. Swank, Administrative Law Judge, United States Department of Labor.

Christopher Pierson (Burns White LLC), Pittsburgh, Pennsylvania, for Employer.

William M. Bush, Acting Counsel for Administrative Appeals (Jonathan Berry, Solicitor of Labor; Jennifer Feldman Jones, Acting Associate

Solicitor), Washington, D.C., for the Director, Office of Workers' Compensation Programs, United States Department of Labor.

Before: GRESH, Chief Administrative Appeals Judge, ROLFE and JONES, Administrative Appeals Judges.

PER CURIAM:

The Director, Office of Workers' Compensation Programs (the Director), appeals Administrative Law Judge (ALJ) Drew A. Swank's Decision and Order Denying Director's Motion for Reconsideration of Order Dismissing Employer as Responsible Operator, Awarding Benefits, and Remanding Claim to District Director for Payment (2023-BLA-05295) rendered on a claim filed on December 22, 2021, pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (2018) (Act).

In an Order Dismissing Employer as Responsible Operator and Directing Solicitor to Respond (Order) dated December 7, 2023, the ALJ found Claimant performed his work hauling coal for Employer as an independent contractor. He thus found Claimant did not qualify as an employee under the Act and therefore Employer is not the responsible operator, shifting liability to the Black Lung Disability Trust Fund (Trust Fund). The Director moved for reconsideration, arguing the ALJ erred.

In a Decision and Order issued on January 26, 2024, the ALJ denied reconsideration and again found Employer not liable for benefits because Claimant was an independent contractor, not its employee. The ALJ further found the Director did not contest entitlement and consequently awarded benefits. He then remanded the claim to the district director for payment of benefits by the Trust Fund.

On appeal, the Director argues the ALJ did not properly apply the law to the facts in determining whether Employer "employed" Claimant and requests the Benefits Review Board vacate the ALJ's finding and remand the case for further consideration. Employer responds, urging affirmance of the ALJ's determination.¹ Claimant has not filed a response brief.

¹ The Director does not contest the ALJ's finding that Claimant is entitled to benefits. Decision and Order at 6. Employer likewise conceded at the hearing that Claimant is entitled to benefits. Hearing Transcript at 5. We therefore affirm the ALJ's award of benefits as unchallenged on appeal. *Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983).

The Board's scope of review is defined by statute. We must affirm the ALJ's Decision and Order if it is rational, supported by substantial evidence, and in accordance with applicable law.² 33 U.S.C. §921(b)(3), as incorporated by 30 U.S.C. §932(a); *O'Keeffe v. Smith, Hinchman & Grylls Assocs., Inc.*, 380 U.S. 359 (1965).

Background

It is undisputed that Claimant worked hauling coal from July 1977 to December 2003 and worked exclusively for Employer during this period. Director's Exhibits 3; 33; 34 at 10-11. Employer paid him monthly based on the tonnage of coal he hauled and the distance driven. Hearing Transcript at 16. Claimant used his own vehicle to haul coal and was responsible for all costs related to his truck including gas, tolls, maintenance, and insurance. Director's Exhibits 3, 4, 33, 34; Hearing Transcript at 10-28. Employer directed when and where he would work, and he sold the truck when he stopped working for Employer.³ Director's Exhibits 3; 34 at 10-11; Hearing Transcript at 10-28. In addition, he had no employees, his business was not incorporated, and he did not carry workers' compensation insurance. Director's Exhibit 33 at 2-3.

The ALJ initially found Claimant was an independent contractor rather than an employee. Order at 5. Specifically, he considered whether Employer "reserved to itself . . . powers which allowed it to exercise *supervision* and *control* over Claimant's trucking operation when he hauled coal for Employer." *Id.* at 3 (emphasis in original). The ALJ found Claimant retained control as he personally owned the truck, paid for the insurance,

² This case arises within the jurisdiction of the United States Court of Appeals for the Third Circuit because Claimant performed his coal mine employment in Pennsylvania. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc); Director's Exhibit 3.

³ Claimant's Social Security Administration (SSA) earnings records list his earnings during his self-reported period of coal mine employment from 1977 to 2003 as self-employment income. Director's Exhibit 7. In addition to the earnings from self-employment during that period, Claimant's SSA earnings records show earnings from Edward K. Roudybush Hauling from 1984 to 1985. *Id.* After Claimant's reported period of coal mine employment, his SSA earnings records show he had earnings from Seven D Truss L P from 2006 to 2010, Degol Brothers from 2010 to 2011, Degol Organization Real Estate and Development from 2012 to 2013, D Holdings Inc. from 2013 to 2018, and Seven D Wholesale of PA LP from 2019 to 2020. *Id.* at 4-5. Claimant testified that all of the companies he worked for after Employer are "different branches" of the same entity. Hearing Transcript at 22-23.

registration, gasoline, and tolls, and was not paid a wage. *Id.* at 4. He further found it “unclear whether either or both parties retained the right to terminate the agreement” *Id.* at 5. In addition, he determined that while Employer had the power to designate loading and delivery, and provided an employee to load the truck, Claimant had discretion to determine the number of hauling trips and no evidence suggests Employer selected the route of travel or reserved the right of supervision or instruction while en route. *Id.* The ALJ therefore concluded that Claimant was not an employee as he “provided the equipment, was paid on a tonnage basis, and controlled the *means* by which he achieved a *result* for Employer.” *Id.* (citing *Crabtree v. Bethlehem Steel Corp.*, 7 BLR 1-354, 1-355 (1984); *Crews v. Leckie Smokeless Coal Co.*, 7 BLR 1-220, 1-222 (1984)) (emphasis in original). Thus, the ALJ dismissed Employer as the responsible operator and found liability shifted to the Black Lung Disability Trust Fund.⁴ *Id.*

On December 20, 2023, the Director filed a motion for reconsideration. The Director argued that an independent contractor is not necessarily precluded from being an employee and that the ALJ relied too heavily on the method of payment in this case, focusing on an employment classification rather than the reality of the work performed. Motion at 4-5. The Director further maintained that the ALJ erred in not considering the full economic reality of the relationship between the parties. *Id.* at 6-7 (citing 20 C.F.R. §725.493(a)(1); *Martin v. Selker Bros., Inc.*, 949 F.2d 1286, 1293 (3d Cir. 1991)). Specifically, the Director argued that the ALJ overly relied on the method of payment, overly relied on old case law, and erred in finding Employer did not exercise substantial control over Claimant’s work. *Id.* at 6-10.

On January 26, 2024, the ALJ denied the Director’s motion. Decision and Order. He found the Director’s interpretation of 20 C.F.R. §725.493(a)(1) would result in an overly broad definition of employee that did not adequately recognize independent contractors as a separate classification dispositive of employee status, concluding “it is well established that while a self-employed individual may be considered an employee, an independent contractor may never be considered an employee.” Decision and Order at 5. Responding to the Director’s argument that the ALJ overly relied on Employer’s method of payment to Claimant to find it did not exercise substantial control of Claimant, the ALJ found that, regardless of the method of payment, he would still find Claimant is an independent contractor and not an employee as Claimant personally owned the truck; paid for its associated expenses; and received no health benefits, pension benefits, or paid

⁴ Notably, an ALJ may not dismiss the designated responsible operator “except upon the motion or written agreement of the Director.” 20 C.F.R. §725.456(b). The ALJ therefore erred in dismissing Employer in this case because the Director did not consent to it.

holidays; moreover, neither Social Security nor unemployment taxes were deducted from his pay. *Id.* at 5-6.

Discussion

The Director argues again on appeal that the ALJ erred in finding Claimant is not an employee by generally labeling Claimant as an independent contractor without considering the full economic realities of the relationship between Claimant and Employer. Director's Brief at 9-16. We agree that the statute and implementing regulations require a functional analysis of the relationship and that the ALJ erred by focusing strictly on a common law classification of Claimant as an independent contractor. The ALJ consequently did not consider all of the determinative factors in weighing whether Claimant was Employer's employee; therefore, we remand this claim to him to consider all of the relevant facts under the broader framework that the Act and the regulations envision.

The Definition of an Employee

The definition of an employee is inextricably intertwined with the regulations governing the determination of a responsible operator. The responsible operator is the potentially liable operator that most recently *employed* the miner. 20 C.F.R. §725.495(a)(1). Once the district director designates a potentially liable operator, that operator may be relieved of liability only if it proves it is financially incapable of assuming liability for benefits or another operator more recently employed the miner for a cumulative period of at least one year and is financially capable of assuming liability for benefits.⁵ 20 C.F.R. §725.495(c).

⁵ A coal mine operator is a "potentially liable operator" if it meets the criteria set forth at 20 C.F.R. §725.494(a)-(e). For a coal mine operator to meet the regulatory definition of a "potentially liable operator," each of the following conditions must be met: a) the miner's disability or death must have arisen at least in part out of employment with the operator; b) the operator or its successor must have been in business after June 30, 1973; c) the operator must have employed the miner for a cumulative period of not less than one year; d) at least one day of the employment must have occurred after December 31, 1969; and e) the operator must be financially capable of assuming liability for the payment of benefits, either through its own assets or through insurance. 20 C.F.R. §725.494(a)-(e). Employer does not argue that Claimant hauled coal for Employer for less than one year, that it is financially incapable of assuming liability, or that Claimant was subsequently employed by another coal mine operator for at least one year. 20 C.F.R. §§725.494(a)-(e), 725.495(c). It argues solely that it did not employ Claimant.

Prior to 2000, the terms “employ” and “employment” were not defined in the Act or regulations, and the courts turned to former 20 C.F.R. §725.491(c)(2)(ii) (1983) to determine whether an employer “substantially controls, supervises, or is financially responsible for the activities of the self-employed operator.” Thus, ALJs would consider the common law definition of a master-servant relationship, employing the four-factor test to determine the right of control: (1) direct evidence of the right or exercise of control; (2) method of payment; (3) furnishing of payment; and (4) the right to fire.⁶ See *Crabtree*, 7 BLR at 1-355; *Folmar v. River Hill Coal Co.*, 8 BLR 1-385, 1-387 (1986); *Crews*, 7 BLR at 1-222.

The Department of Labor (DOL) discovered coal mine companies used a variety of financial arrangements to avoid liability under that framework, however, and it therefore amended the regulations to include definitions of the terms “employ” and “employment.” 64 Fed. Reg. 54,966, 54,999 (1999); 62 Fed. Reg. 3,338, 3,369 (1997). The new definitions of “employ” and “employment” were intended to “foreclose those efforts by recognizing a broad range of employment relationships between coal mine companies and those individuals who actually mine coal.” 64 Fed. Reg. at 54,999. But the DOL also noted the new changes were not intended “to redefine ‘independent contractor’ or ‘sole proprietor’ *simply* to make coal mine operators liable for those individuals’ benefits.” *Id.* (emphasis added). Thus, the applicable new regulation states:

In determining the identity of a responsible operator under this part, the terms “employ” and “employment” shall be construed as broadly as possible, and shall include any relationship under which an operator retains the right to direct, control, or supervise the work performed by a miner, or any other relationship under which an operator derives a benefit from the work performed by a miner. . . . It is the specific intention of this paragraph to disregard any financial arrangement or business entity devised by the actual owners or operators of a coal mine or coal mine-related enterprise to avoid

⁶ Where the term “employee” is not defined, courts should conclude “that Congress intended to describe the conventional master-servant relationship as understood by common-law agency doctrine.” *Cnty. for Creative Non-Violence v. Reid*, 490 U.S. 730, 740 (1989); *Robinson v. Baltimore & O.R. Co.*, 237 U.S. 84, 94 (1915). In such cases, the courts should consider, “among other factors,” the skill required, the source of equipment, the location of the work, the duration of the relationship, the right to assign projects, discretion over when and how long to work, the method of payment, the hiring and paying process, whether the work is part of the regular business of the hiring party, employee benefits, and the tax treatment of the hiring party. *Reid*, 490 U.S. at 751-52.

the payment of benefits to miners who, based upon the *economic reality* of their relationship to this enterprise, are, in fact, employees of the enterprise.

20 C.F.R. §725.493(a)(1) (emphasis added).

The ALJ Improperly Concluded Independent Contractors Can Never Be Employees Under The Act and Regulations.

The ALJ initially analyzed whether Claimant is an employee within the context of prior Board cases that predate the new regulatory definition of an “employee,” limiting his consideration to primarily whether Employer retained the right to control Claimant, and analogizing Claimant’s situation to those found in *Crabtree* and *Crews*. Order at 5 (“The facts of this case are therefore analogous to those of *Crews*, in which the Board found that Claimant was an independent contractor, not an employee.”). When asked by the Director to reconsider his findings under the broader economic realities of the relationship, the ALJ did not address the Director’s concerns but instead once again analyzed the issue under the cases that predate the definition of an employee established by the regulation and again concluded an independent contractor can never be an employee under the Act. Decision and Order at 6 (“[T]he facts set forth *supra* render Claimant an independent contractor and not an employee per *Crabtree* and *Crews*.”).

But the Act and its implementing regulations do not create the binary distinction between an employee and an independent contractor that the ALJ applied. The statute instead focuses on whether the individual’s work involved coal mine employment -- not on the common law label “independent contractor.” Congress’s definition of a miner includes “any individual who works or has worked in and around a coal mine or coal preparation facility in the extraction or preparation of coal” and expressly covers persons engaged in coal transportation to the extent they were exposed to coal dust as a result of that work. 30 U.S.C. §902(d). Consistent with that purpose, the revised regulation defining “employee” reflects the intent to focus on the reality of the work performed rather than any formal employment classifications. 20 C.F.R. §725.493(a)(1). Where a worker functions as part of the coal production process and faces the same occupational hazards as traditional employees, the Act treats that worker as an employee regardless of any independent-contractor terminology. *Id.*

Because the ALJ therefore applied an incorrect legal standard by treating common law independent contractor status as dispositive, we vacate his findings and remand the case for reconsideration under the appropriate functional and broader economic realities test, considering “the right to direct, control, or supervise the work” and “any other relationship under which [Employer derived] a benefit from the work performed by [Claimant].” 20 C.F.R. §725.493(a)(1). Moreover, as the Director further notes, the ALJ

failed to recognize critical differences between our prior precedent and this case in determining the effective right to control, the furnishing of equipment, and the right to fire, which remain relevant considerations. Director’s Brief at 13-17.⁷

The Effective Right to, or The Exercise of, Control

In this case, the ALJ noted that while Employer controlled the point of loading and delivery of coal, directed an employee to load Claimant’s truck, and controlled the days Claimant worked, it did not select the route of travel beyond providing signage or reserve the right of en route supervision or instruction. Order at 5. The ALJ found these factors were analogous to *Crews* and “indicate[d]” Employer did not retain power of control and supervision, and “[j]ust as in *Crabtree* the miner controlled the means and manner by which he performed his hauling work.” *Id.* at 4-5. Thus, the ALJ concluded Employer did not retain the power of control necessary to make Claimant an employee. *Id.* The ALJ’s analysis, however, does not account for some key distinctions.

In *Crews*, the miner worked for an employer for a number of years and was subsequently contracted to haul coal for that employer as a self-employed operator. *Crews*, 7 BLR at 1-222-123. The ALJ in *Crews* found that these two periods of time were

⁷ “Economic reality” has not been specifically defined by the regulations or courts under the Act, but courts (and specifically the Third Circuit) have defined it under the Fair Labor Standards Act (FLSA) (as part of a broad definition of employee meant to effectuate the FLSA’s remedial purposes), for example, as being a non-exhaustive six-factor test that still includes the factor of control:

- 1) the degree of the alleged employer’s right to control the manner in which the work is to be performed; 2) the alleged employee’s opportunity for profit or loss depending upon his managerial skill; 3) the alleged employee’s investment in equipment or materials required for his task, or his employment of helpers; 4) whether the service rendered requires a special skill; 5) the degree of permanence of the working relationship; [and] 6) whether the service rendered is an integral part of the alleged employer’s business.

See Martin v. Selker Bros., Inc., 949 F.2d 1286, 1293 (3d Cir. 1991); *see also Barfield v. New York City Health and Hospitals Corp.*, 537 F.2d 132, 142-43 (2d Cir. 2008); *Hopkins v. Cornerstone America*, 545 F.3d 338, 343 (5th Cir. 2008); *Donovan v. Surefway Cleaners*, 656 F.2d 1368, 1370 (6th Cir. 1981).

indistinguishable and concluded that the claimant was an employee as the employer directed work assignments, it controlled the amount of coal the claimant could haul, and the claimant did not refuse work out of fear of being fired. *Id.* at 1-223. The Board determined that “[t]he degree of control exercised by employer over claimant was no greater than that required for the assignment of work to an independent contractor.” *Id.* Given the dearth of other information in *Crews* regarding the economic realities between the parties, and the revision of the regulations after *Crews* was issued making clear that independent contractors may be employees, the case is of limited use here.

Similarly, there are significant differences between *Crabtree* and this case that the ALJ did not address. In *Crabtree*, an ALJ found a claimant who operated a company hauling coal was an employee because he spent his entire day at the employer’s mine site, he supervised his trucks and drivers, he was paid on a contractor basis, and the employer’s superintendent of mines supervised his work. *Crabtree*, 7 BLR at 1-355. The Board disagreed, noting that the relationship was governed by a number of form contracts that “explicitly impose on claimant the responsibility to arrange for permits, insurance, travel routes, vehicular speed, ‘and all other matters normally within the powers of independent motor carriers.’” *Id.* at 1-356. Furthermore, the Board noted that the employer did not have the right to fire the employees whom the claimant employed to haul the coal. *Id.* The Board concluded that the only aspect of “control” marginally retained by the employer concerned a vague “time of performance” that the employer’s supervisor directed and therefore found that the employer did not retain the right to control the claimant. *Id.* The number of hauling trips the claimant made in *Crabtree* depended on the contracts he agreed to with the employer, and the contracts’ “standard provisions explicitly imposed on [the] claimant the responsibility to arrange . . . travel routes.” *Id.* at 1-355-56.

In this case, Claimant did not enjoy such unfettered independence. Instead, he testified that: he aligned his working hours with when Employer opened and closed for the day during which he typically completed five trips; he reported to Employer’s scale house at the end of the day to receive the next day’s hauling location; Employer determined the pickup and drop off locations and how much coal was loaded; and he did not use his truck to haul for any other employer. *See* Hearing Transcript at 15-16, 26-28. As the ALJ did not address this testimony and these facts, his determination that Claimant retained the

right of control is not adequately explained under the Administrative Procedure Act (APA).⁸ *Wojtowicz v. Duquesne Light Co.*, 12 BLR 1-162, 1-165 (1989).⁹

Furthermore, the ALJ reasoned that the absence of an agreement between Claimant and Employer indicates Claimant had discretion in the number of hauling trips he completed in any given day for Employer. Order at 4-5. But given that Claimant only used his truck to work for Employer, the ALJ failed to explain who else could benefit from the exercise of such discretion. *See Safarian v. American DG Energy Inc.*, 622 F. App'x 149, 151-52 (3d Cir. 2015) (economic realities established an employer-employee relationship when the success of the worker does not actually depend on their own initiative, judgment, or foresight); 29 C.F.R. §795.110(b)(3) (economic realities favor a worker being an employee when the work relationship is exclusive with the employer); 20 C.F.R. §725.495(c)(2) (employer has the burden to produce contrary liability evidence once the district director has designated the responsible operator); 20 C.F.R. §725.493(a)(1); Hearing Transcript at 15-16, 26-28.

Thus, we vacate the ALJ's determination that Claimant controlled the means and manner by which he performed his work to the extent Employer did not reserve to itself the right of control. Order at 5.

The Furnishing of Equipment

The ALJ found that, like the claimants in *Crews* and *Crabtree*, Claimant furnished his own truck and paid all related expenses to maintain the truck. Order at 4-5. Thus, he concluded that this factor weighed in favor of Claimant not being an employee. *Id.* But

⁸ The APA provides that every adjudicatory decision must include “findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion, presented” 5 U.S.C. §557(c)(3)(A), as incorporated into the Act by 30 U.S.C. §932(a).

⁹ The ALJ also considered that Employer did not provide health, pension, or vacation benefits to Claimant and did not deduct Social Security or unemployment taxes from his pay. Decision and Order at 6. In *Crabtree*, the Board characterized such facts as relevant to the “parties’ perception of the relationship,” *see Crabtree v. Bethlehem Steel Corp.*, 7 BLR 1-354, 1-356 n.2 (1984), but the ALJ in this case has not explained how these facts are relevant to Employer’s right of control given the DOL’s mandate to disregard any financial arrangements that operators may have created to avoid the perception that an employer-employee relationship exists. *See* 20 C.F.R. §725.493(a)(1); Decision and Order at 6. Moreover, relying on the parties’ *perception* of the employment relationship is exactly what the DOL sought to avoid.

the ALJ's reliance solely on Claimant's ownership of a single truck does not fully encompass the scope of Claimant's overall investment in comparison to Employer's business. See *Cherichetti v. PJ Endicott Co.*, 906 F. Supp. 2d 312, 317 (D. Del. 2012) (citing *Baker v. Flint Eng'g & Const. Co.*, 137 F.3d 1436, 1442 (10th Cir. 1998) ("Courts have generally held that the fact that a worker supplies his or her own tools or equipment does not preclude a finding of employee status."); *Dole v. Snell*, 875 F.2d 802, 810 (10th Cir. 1989) (cake decorators were employees despite providing their own equipment after a comparison of the workers' individual investments to the employer's investment in the overall business)); Director's Motion for Reconsideration at 8-9. Nor does it account for the fact that, as soon as Claimant stopped working for Employer, he sold his truck and "never hauled any other product," a fact not found in *Crews* or *Crabtree*. Hearing Transcript at 17.

Thus, we vacate the ALJ's determination that the Claimant's furnishing of his truck and payment for its related expenses weighs in favor of Claimant maintaining the right of control and not being an employee. Order at 4-5.

The Right to Fire

The ALJ found that the record did not clearly establish who had the right to terminate the hauling agreement, noting the record is silent as to whether Claimant had the right to decline a job or to what extent he had to report to a loading site on any given day.¹⁰ Order at 5. He concluded that this weighed in favor of Claimant not being an employee. *Id.* The ALJ, however, has provided no explanation for how he came to this conclusion. See *Wojtowicz*, 12 BLR at 1-165. Nor did the ALJ address the Director's argument that Employer had the power to constructively fire Claimant by not scheduling him for hauling work. Director's Motion for Reconsideration at 9-10.

Moreover, despite relying heavily on the facts in *Crabtree* to conclude that Claimant is not an employee, the ALJ completely disregarded the similarities and differences between this case and *Crabtree* regarding the right to fire. In *Crabtree*, the Board found the right to fire factor did not favor finding an employer-employee relationship established because both parties retained the right to terminate the contract with notice. *Crabtree*, 7 BLR at 1-356. In this case, unlike *Crabtree*, there is no evidence the parties treated each hauling job as an individual contract that Claimant might accept or decline, and there is no evidence indicating Employer's failure to provide coal for Claimant to haul would

¹⁰ Employer notified Claimant of his work schedule by posting it at the job site or calling him. Hearing Transcript at 25-27. He would report to work at 6:00 am and work until 4:30 pm or 5:00 pm. *Id.*

constitute an actionable breach of a contract. *See 5 Larson Workers' Compensation* § 61.08(1) (2024) (“The absolute right to terminate the relationship without liability is not consistent with the concept of independent contract, under which the contractor should have the legal right to complete the project contracted for and to treat any attempt to prevent completion as a breach of contract.”).

Consequently, because the ALJ did not adequately explain his findings, we vacate his determination that the right to fire weighs in favor of Claimant not being an employee. *Wojtowicz*, 12 BLR at 1-165.

Remand Instructions

On remand, the ALJ should consider whether Employer produced sufficient evidence showing it did not retain the right to direct, control, or supervise Claimant’s work, *or* otherwise engage in a relationship with Claimant from which it did not primarily benefit. 20 C.F.R. §§725.493(a)(1), 725.495(c)(2). In doing so, he should consider whether Claimant is an employee based on the full economic reality of the relationship between Claimant and Employer under the specific facts of this case. 20 C.F.R. §725.493(a)(1).

The ALJ must explain his findings in detail as the APA requires. *See Wojtowicz*, 12 BLR at 1-165.

Accordingly, we affirm in part and vacate in part the ALJ's Decision and Order Denying Director's Motion for Reconsideration of Order Dismissing Employer as Responsible Operator, Awarding Benefits, and Remanding Claim to District Director for payment, and we remand the case to the ALJ for further consideration consistent with this opinion.

SO ORDERED.

DANIEL T. GRESH, Chief
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge

MELISSA LIN JONES
Administrative Appeals Judge