

failed to establish the existence of pneumoconiosis at 20 C.F.R. §718.202(a) and total disability at 20 C.F.R. §718.204(c). Accordingly, benefits were denied. Claimant appeals, contending that the administrative law judge erred in failing to find the existence of pneumoconiosis and total disability. Employer responds, urging affirmance of the administrative law judge's Decision and Order. The Director, Office of Workers' Compensation Programs (the Director), has not participated in this appeal.

The Board's scope of review is defined by statute. If the findings of fact and conclusions of law of the administrative law judge are supported by substantial evidence, are rational and consistent with applicable law, they are binding upon this Board and may not be disturbed. 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).

Claimant contends that the administrative law judge erred in failing to find total disability at Section 718.204(c). We disagree. The administrative law judge properly found that as the sole pulmonary function study and blood gas study yielded non-qualifying results pursuant to Section 718.204(c)(1) and (2) they could not establish total disability thereunder. Director's Exhibits 9, 11; Decision and Order at 8; *see Schetroma v. Director, OWCP*, 18 BLR 1-19 (1993). The administrative law judge correctly found that as the record is devoid of evidence of cor pulmonale with right sided congestive heart failure, claimant cannot establish total disability at Section 718.204(c)(3). Additionally, the administrative law judge properly concluded that as neither Dr. Baker nor Dr. Dahhan, the only physicians of record, found claimant totally disabled, their opinions are insufficient to establish total disability at Section 718.204(c)(4). *See Budash v. Bethlehem Mines Corp.*, 9 BLR 1-48 (1986), *aff'd on recon.* 9 BLR 1-104 (1986); *Gee v. W.G. Moore and Sons*, 9 BLR 1-4 (1986)(*en banc*); *King v. Cannerton Industries, Inc.*, 8 BLR 1-146 (1985); *Wetzel v. Director, OWCP*, 8 BLR 1-139 (1985); Employer's Exhibit 1; Director's Exhibit 10; Decision and Order at 8.

Further, we reject claimant's contention that merely because pneumoconiosis is a progressive and irreversible disease it can be presumed that claimant is totally disabled once there has been an initial diagnosis of pneumoconiosis. 20 C.F.R. §718.204(c); *see Gee, supra*. Additionally, contrary to claimant's argument, the administrative law judge is not required to consider age, education and work history in determining whether claimant is totally disabled from his usual coal mine employment inasmuch as these factors are not relevant to establishing total disability pursuant to 20 C.F.R. §718.204(c). *See Taylor v. Evans & Gambrel Co., Inc.*, 12 BLR 1-83 (1988); *Gee, supra*. Accordingly, the administrative law judge's finding at Section 718.204(c)(4) must be affirmed.

As we affirm the administrative law judge's finding of no total disability at Section 718.204(c)(1)-(4), a requisite element of entitlement, we affirm the administrative law judge's denial of benefits. *Cross Mountain Coal, Inc. v. Ward*, 93 F.3d 211, 20 BLR 2-360 (6th Cir. 1996); *Adams v. Director, OWCP*, 886 F.2d 818, 13 BLR 2-52 (6th Cir. 1989); *Gee*,

supra. As we affirm on this basis, we need not address claimant's contentions at Section 718.202(a).

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

SO ORDERED.

ROY P. SMITH
Administrative Appeals Judge

JAMES F. BROWN
Administrative Appeals Judge

MALCOLM D. NELSON, Acting
Administrative Appeals Judge