

BRB No. 04-0523 BLA

EARL THOMAS)
)
 Claimant-Petitioner)
)
 v.)
)
 CONSOLIDATION COAL COMPANY) DATE ISSUED: 02/07/2005
)
 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 Fletcher E. Campbell, Jr.,
Administrative Law Judge, United States Department of Labor.

Daniel L. Chunko (Chunko Law Firm), Washington, Pennsylvania, for
claimant.

Ashley M. Harman (Jackson Kelly PLLC), Morgantown, West Virginia, for
employer.

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

PER CURIAM:

Claimant appeals the Decision and Order (2003-BLA-5645) of Administrative
Law Judge Fletcher E. Campbell, Jr., 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). The administrative law judge credited the
miner with twenty-two years of qualifying coal mine employment as stipulated by the
parties, and adjudicated this claim, filed on November 26, 2001, pursuant to the
provisions at 20 C.F.R. Part 718. The administrative law judge found that although
claimant established that he suffered a totally disabling respiratory impairment, the
weight of the evidence was insufficient to establish either disability causation or the

existence of pneumoconiosis as defined at 20 C.F.R. §718.201. Accordingly, benefits were denied.

On appeal, claimant generally challenges the administrative law judge's denial of benefits. Employer responds, urging affirmance. The Director, Office of Workers' Compensation Programs, 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 by 30 U.S.C. §932(a); *O'Keefe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

The Board is not required to undertake a de novo adjudication of the claim. To do so would upset the carefully allocated division of power between the administrative law judge as trier-of-fact, and the Board as a review tribunal. *See* 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 challenging the Decision and Order below address that Decision and Order and demonstrate why substantial evidence does not support the result reached or why the Decision and Order is contrary to law. *See* 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); *Sarf*, 10 BLR 1-119; *Slinker v. Peabody Coal Co.*, 6 BLR 1-465 (1983); *Fish v. Director, OWCP*, 6 BLR 1-107 (1983). Unless the party identifies errors and briefs allegations in terms of the relevant law and evidence, the Board has no basis upon which to review the decision.

In the instant case, claimant generally asserts that the evidence shows that he is totally disabled by pneumoconiosis arising out of coal mine employment, and that the administrative law judge improperly evaluated claimant's smoking history and failed to accord sufficient weight to claimant's medical evidence, *see* Claimant's Brief at 1-3, but claimant has failed to identify any errors made by the administrative law judge in the evaluation of the evidence and the applicable law pursuant to 20 C.F.R. Part 718.¹ Thus, as claimant's counsel has failed to adequately 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.

¹ Claimant also asserts that he was awarded Pennsylvania Occupational Disease benefits as a "direct result of the credible findings of Dr. Basheda and Dr. Hajduk...that Claimant is totally disabled as a result of coal workers' pneumoconiosis." Claimant's Brief at 3. The administrative law judge did not consider this evidence, however, because it was not submitted for inclusion into the record before him.

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

SO ORDERED.

NANCY S. DOLDER, Chief
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge

BETTY JEAN HALL
Administrative Appeals Judge