

BRB No. 88-3626 BLA

WALKER J. HOLSAPPLE )  
 )  
 Claimant-Petitioner )  
 )  
 v. )  
 )  
 BIG TEN CORPORATION )  
 )  
 Employer-Respondent ) DATE ISSUED:  
 )  
 )  
 DIRECTOR, OFFICE OF WORKERS' )  
 COMPENSATION PROGRAMS, UNITED )  
 STATES DEPARTMENT OF LABOR )  
 )  
 Party-In-Interest ) DECISION and ORDER

Appeal of the Decision and Order of John H. Bedford, Administrative Law Judge, United States Department of Labor.

Walker J. Holsapple, Coeburn, Virginia, pro se.

Michael J. Pollack (Arter & Hadden), Washington, D.C., for employer.

C. William Mangum (Marshall J. Breger, Solicitor of Labor; Donald S. Shire, Associate Solicitor; Rae Ellen Frank James, Deputy Associate Solicitor; Richard A. Seid and Michael J. Rutledge, Counsel for Administrative Litigation and Legal Advice), Washington, D.C., for the Director, Office of Workers' Compensation Programs, United States Department of Labor.

Before: STAGE, Chief Administrative Appeals Judge, SMITH, Administrative Appeals Judge, and BONFANTI, Administrative Law Judge.\*

PER CURIAM:

Claimant appeals, without the assistance of counsel, the

Decision and Order (88-BLA-0951) of Administrative Law

\*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).

Judge John H. Bedford 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). Based on the date of filing, March 24, 1986, the administrative law judge considered the claim pursuant to 20 C.F.R. Part 718. Upon considering the claim, the administrative law judge determined that the record contained no medical evidence and that, as a result, claimant failed to establish the existence of pneumoconiosis or total disability pursuant to 20 C.F.R. §§718.202 and 718.204. The administrative law judge further denied the claim on the ground of abandonment pursuant to 20 C.F.R. §§725.409(a)(1) and 725.408 as claimant did not provide any medical test results. Accordingly, benefits were denied. Employer and the Director, Office of Workers' Compensation Programs, respond in support of the administrative law judge's Decision and Order.

In an appeal filed by a claimant without the assistance of counsel, the Board considers the issue to be whether the Decision and Order below is supported by substantial evidence. Stark v. Director, OWCP, 9 BLR 1-36 (1986). We must affirm the findings of the administrative law judge if they are supported by substantial evidence, are rational, and are in accordance with applicable 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).

As the administrative law judge properly determined that the record does not contain any medical evidence, the administrative law judge permissibly determined that claimant failed to establish the existence of pneumoconiosis and total disability pursuant to 20 C.F.R. §§718.202 and 718.204. See Decision and Order at 3. As claimant has failed to establish the existence of pneumoconiosis or total disability, essential elements of entitlement under Part 718, the administrative law judge's denial of benefits is affirmed. See Anderson v. Valley Camp of Utah, Inc., 12 BLR 1-111 (1989); Perry v. Director, OWCP, 9 BLR 1-1 (1986).

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

SO ORDERED.

BETTY J. STAGE, Chief  
Administrative Appeals Judge

ROY P. SMITH,  
Administrative Appeals Judge

RENO E. BONFANTI  
Administrative Law Judge