



BRB No. 18-0309 BLA
Case No. 2013-BLA-05839

MELYNDIA ANN BRYAN)
(Widow of BERT FOWLER BRYAN))

Claimant-Respondent)

v.)

ISLAND CREEK COAL COMPANY)

and)

WELLS FARGO DISABILITY)
MANAGEMENT)

DATE ISSUED: 06/15/2018

Employer/Carrier-)
Petitioners)

DIRECTOR, OFFICE OF WORKERS')
COMPENSATION PROGRAMS, UNITED)
STATES DEPARTMENT OF LABOR)

Party-in-Interest) ORDER

By Order dated May 21, 2018, the Board denied employer's motion for reconsideration of the Board's decision affirming the administrative law judge's award of benefits in the miner's claim. *Bryan v. Island Creek Coal Co.*, BRB Nos. 17-0277 BLA, 18-0309 BLA (May 21, 2018)(Order) (unpub.). In the same Order, the Board acknowledged receipt of employer's appeal of the administrative law judge's separate Decision and Order (2013-BLA-05839) awarding benefits in the survivor's claim pursuant to Section 422(l) of the Act, 30 U.S.C. §932(l) (2012), which provides for automatic entitlement for the survivors of miners who were determined to be eligible to receive

benefits at the time of death.¹ *Id.* at 2. The Board assigned employer's appeal BRB No. 18-0309 BLA, and ordered the parties to show cause within ten (10) days of receipt of the Board's Order why the administrative law judge's award of benefits in the survivor's claim should not be affirmed on the basis that claimant is automatically entitled to receive survivor's benefits under 30 U.S.C. §932(l).² *Id.*

The Director, Office of Workers' Compensation Programs, responds that she sees no reason that the Board should not affirm the administrative law judge's award of benefits in the survivor's claim. Employer and claimant have not filed responses to the Order to Show Cause.

¹ Section 422(l) of the Act provides that a survivor of a miner who was determined to be eligible to receive benefits at the time of his or her death is automatically entitled to survivor's benefits without having to establish that the miner's death was due to pneumoconiosis. 30 U.S.C. §932(l) (2012).

² The administrative law judge found that claimant satisfied her burden to establish each fact necessary to demonstrate her entitlement under Section 932(l): she filed her claim after January 1, 2005; she is an eligible survivor of the miner; her claim was pending on or after March 23, 2010; and the miner was determined to be eligible to receive benefits at the time of his death. 30 U.S.C. §932(l); Decision and Order at 3-4.

Accordingly, the administrative law judge's Decision and Order awarding benefits in the survivor's claim is affirmed. 30 U.S.C. §932(l); *Thorne v. Eastover Mining Co.*, 25 BLR 1-121, 1-126 (2013).

BETTY JEAN HALL, Chief
Administrative Appeals Judge

RYAN GILLIGAN
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge