

BRB No. 05-0115 BLA

LEANDER CRAWFORD)	
)	
Claimant-Petitioner)	
v.)	
)	
FRONTIERS COAL, INCORPORATED)	DATE ISSUED: 05/24/2005
)	
and)	
)	
TRAVELERS INSURANCE COMPANY)	
)	
Employer/Carrier-)	
Respondents)	
)	
DIRECTOR, OFFICE OF WORKERS')	
COMPENSATION PROGRAMS, UNITED)	
STATES DEPARTMENT OF LABOR)	
)	
Party-in-Interest)	DECISION and ORDER

Appeal of the Decision and Order - Denying Benefits of Joseph E. Kane, Administrative Law Judge, United States Department of Labor.

Edmond Collett (Edmond Collett, P.S.C.), Hyden, Kentucky, for claimant.

James M. Kennedy (Baird & Baird, P.S.C.), Pikeville, Kentucky, for employer/carrier.

Rita Roppolo (Howard M. Radzely, Solicitor of Labor, Donald S. Shire, Associate Solicitor; Rae Ellen Frank James, Deputy Associate Solicitor; 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: DOLDER, Chief Administrative Appeals Judge, SMITH and HALL, Administrative Appeals Judges.

PER CURIAM:

Claimant appeals the Decision and Order - Denying Benefits (2003-BLA-5345) of Administrative Law Judge Joseph E. Kane (the administrative law judge) 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 found that while the evidence was sufficient to establish total respiratory disability pursuant to 20 C.F.R. §718.204(b)(2) it was insufficient to establish the existence of pneumoconiosis pursuant to 20 C.F.R. §718.202(a) (1)-(4), or total disability due to pneumoconiosis pursuant to 20 C.F.R. §718.204(c). Accordingly, benefits were denied.

On appeal, claimant challenges the administrative law judge's findings that the x-ray evidence fails to establish the existence of pneumoconiosis pursuant to Section 718.202(a)(1). Claimant also contends that the administrative law judge erred when he found that the medical opinion evidence failed to establish total respiratory disability.¹ Additionally, claimant contends that the Department of Labor (DOL) failed to provide him with a complete and credible pulmonary evaluation sufficient to substantiate his claim pursuant to Section 413(b) of the Act, 30 U.S.C. §923(b), because the administrative law judge found that Dr. Hussain's opinion was not well-reasoned. Employer responds, urging affirmance of the administrative law judge's award of benefits. The Director, Office of Workers' Compensation Programs, (the Director) responds, asserting that Dr. Hussain's medical report satisfies his obligation to provide claimant with a complete and credible pulmonary evaluation pursuant to Section 413(b) since the report addressed the requisite elements of entitlement.

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 into the Act by 30 U.S.C. §932(a); *O'Keefe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

In order to establish entitlement to benefits in a miner's claim under 20 C.F.R. Part 718, claimant must establish that he suffers from pneumoconiosis, that the pneumoconiosis arose out of coal mine employment, and that the pneumoconiosis is totally disabling. *See* 20 C.F.R. §§718.3, 718.201, 718.202, 718.203, 718.204. Failure to establish any of these elements precludes entitlement. *Trent v. Director, OWCP*, 11 BLR 1-26 (1987); *Perry v.*

¹ The administrative law judge did, however, find that the medical opinion evidence and the pulmonary function study evidence established a totally disabling respiratory impairment. Decision and Order at 16.

Director, OWCP, 9 BLR 1-1(1986)(*en banc*).

At the outset, we note that claimant has not challenged or made any specific allegation of error regarding the administrative law judge's finding that claimant failed to establish that his total disability was due to pneumoconiosis. Claimant's Brief 2-6. Because claimant has failed to allege with specificity any error made by the administrative law judge in reaching this finding, the finding must be affirmed. *Cox v. Benefits Review Board*, 791 F.2d 445, 9 BLR 2-46 (6th Cir. 1986); *Sarf v. Director, OWCP*, 10 BLR 1-119 (1987); *Coen v. Director, OWCP*, 7 BLR 1-30, 1-33 (1984); *Skrack v. Island Creek Coal Co.*, 6 BLR 1-710 (1983). Accordingly, because the administrative law judge found that claimant did not establish that claimant's disability was due to pneumoconiosis, as an essential element of entitlement, and claimant has not challenged that finding, the claim for benefits must be denied and we need not address claimant's argument regarding the existence of pneumoconiosis at Section 718.202(a)(1). *See Trent*, 11 BLR 1-26; *Perry*, 9 BLR 1-1.

Regarding claimant's argument that he was not provided a complete, credible pulmonary evaluation, we reject that argument. Claimant does not allege, nor did the administrative law judge find, that Dr. Hussain failed to address all elements of entitlement. *See Cline v. Director, OWCP*, 917 F.2d 9, 11, 14 BLR 2-102, 2-105 (8th Cir. 1990). Rather, the administrative law judge found that Dr. Hussain's opinion was not "particularly well-reasoned" and that it was outweighed by "the great weight of the medical opinion evidence." Decision and Order at 16. These findings do not render the opinion insufficient, as a matter of law, to substantiate claimant's claim. *See* 20 C.F.R. §725.406; *Cline*, 917 F.2d 9, 11, 14 BLR 2-102, 2-105.

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

SO ORDERED.

NANCY S. DOLDER, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

BETTY JEAN HALL
Administrative Appeals Judge