

BRB No. 99-0356 BLA

ARTHUR FLETCHER)
)
 Claimant-Petitioner)
)
 v.)
)
 SMC COAL & TERMINAL COMPANY)
)
 and)
)
 ZEIGLER COAL HOLDING COMPANY)
)
 Employer/Carrier-)
 Respondents)
)
 DIRECTOR, OFFICE OF WORKERS')
 COMPENSATION PROGRAMS, UNITED)
 STATES DEPARTMENT OF LABOR)
)
 Party-in-Interest)

DATE ISSUED: 11/9/99

DECISION and ORDER

Appeal of the Decision and Order - Denial of Benefits of Daniel J. Roketenetz, Administrative Law Judge, United States Department of Labor.

Jeffery Hinkle, Inez, Kentucky, for claimant.

Laura Metcoff Klaus (Arter & Hadden LLP), Washington, D.C., for employer.

Before: SMITH and McGRANERY, Administrative Appeals Judges, and NELSON, Acting Administrative Appeals Judge.

PER CURIAM:

Claimant appeals the Decision and Order - Denial of Benefits (97-BLA-1672) of Administrative Law Judge Daniel J. Roketenetz 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 considered the instant claim, filed on October 28, 1996, under the applicable regulations at 20 C.F.R. Part 718. After crediting claimant with twenty-two years and four months of coal mine employment, the administrative law judge found the evidence insufficient to establish the existence of pneumoconiosis under 20 C.F.R. §718.202(a)(1)-(4) and total disability under 20 C.F.R. §718.204(c)(1)-(4). Accordingly, he denied benefits. On appeal, claimant generally

challenges the administrative law judge's denial of benefits. Employer has filed a response brief in support of the administrative law judge's decision denying benefits, and urges the Board to affirm the denial of benefits for claimant's failure to provide a sufficient basis for review of the administrative law judge's findings. The Director, Office of Workers' Compensation Programs, has filed a letter indicating he does not presently intend to participate in this appeal.

The Board's scope of review is defined by statute. The administrative law judge's Decision and Order must be affirmed if it is rational, supported by substantial evidence, and 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).

We agree with employer that claimant's Petition for Review and brief fails to provide an adequate basis for review of the administrative law judge's Decision and Order. Claimant's brief neither raises any substantive issues nor identifies any error on the part of the administrative law judge in determining that the weight of the evidence of record was insufficient to establish the existence of pneumoconiosis under Section 718.202(a) and total disability under Section 718.204(c). Claimant merely asserts that he has worked for twenty-two years in coal mine employment with a commendable record, and refers to medical evidence favorable to his claim.¹ Consequently, we affirm the administrative law judge's denial of benefits. *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).

Accordingly, the administrative law judge's Decision and Order - Denial of Benefits is

¹Claimant refers to Dr. Sundaram's medical opinion dated November 14, 1997, which indicates that pneumoconiosis and an increase in shortness of breath is present, and positive x-ray interpretations from Drs. Lane and Skolnick. Claimant's Exhibits 1-3. Claimant does not raise any specific contention that the administrative law judge erred in weighing this evidence. Rather, claimant's sole specific contention is that his hearing testimony that he suffers from severe symptoms of pneumoconiosis should have been given great weight. Claimant asserts that the credibility of his testimony cannot be questioned because he worked for twenty-two years in coal mine employment with a commendable work record, and suggests that his testimony, by virtue of its credibility, is sufficient to establish entitlement to benefits. In a living miner's claim, however, the elements of entitlement under 20 C.F.R. Part 718 cannot be established solely by a miner's statements or testimony, *i.e.*, without corroborating medical evidence. See *Fields v. Island Creek Coal Co.*, 10 BLR 1-19 (1987); *Matteo v. Director, OWCP*, 8 BLR 1-200 (1985).

affirmed.

SO ORDERED.

ROY P. SMITH
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge

MALCOLM D. NELSON, Acting
Administrative Appeals Judge