

BRB No. 99-0175 BLA

DOLLIE J. RUNYON	)	
(Widow of JOHN RUNYON)	)	
	)	
Claimant-Petitioner	)	
	)	
v.	)	
	)	
EASTERN COAL CORPORATION	)	DATE ISSUED:
	)	
and	)	
	)	
EMPLOYERS SERVICE CORPORATION	)	
	)	
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-Denial of Benefits of Daniel K. Roketenetz, Administrative Law Judge, United States Department of Labor.

Dollie J. Runyon, McAndrews, Kentucky, *pro se*.

Lois A. Kitts (Baird, Baird, Baird & Jones, P.S.C.), Pikeville, Kentucky, for employer/carrier.

Before: HALL, Chief Administrative Appeals Judge, BROWN, Administrative Appeals Judge, and NELSON, Acting Administrative Appeals Judge.

PER CURIAM:

Claimant,<sup>1</sup> without the assistance of counsel, appeals the Decision and Order-Denial

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<sup>1</sup> Claimant is Dollie J. Runyon, surviving spouse of the miner, John Runyon, who died on January 7, 1995. Director's Exhibit 9. Claimant filed an application for survivor's benefits

of Benefits (96-BLA-1544) of Administrative Law Judge Daniel J. Roketenetz on a survivor's 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 the autopsy evidence established the existence of pneumoconiosis pursuant to 20 C.F.R. §718.202(a)(2), but found that the evidence failed to establish that the miner's death was due to pneumoconiosis pursuant to 20 C.F.R. §718.205(c). Accordingly, benefits were denied.

In an appeal by a claimant filed without the assistance of counsel, the Board considers the issue raised on appeal to be whether the Decision and Order below is supported by substantial evidence. *McFall v. Jewell Ridge Coal Corp.*, 12 BLR 1-176 (1989); *Stark v. Director, OWCP*, 9 BLR 1-36 (1986); *Antonio v. Bethlehem Mines Corp.*, 6 BLR 1-702 (1983). We must affirm the administrative law judge's Decision and Order if the findings of fact and conclusions of law are rational, supported by substantial evidence, and in accordance with 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). Employer, in response, asserts that the administrative law judge's finding that the evidence fails to establish that the miner's death was due to pneumoconiosis pursuant to Section 718.205(c) is supported by substantial evidence, and accordingly, urges affirmance of the administrative law judge's denial of benefits. The Director, Office of Workers' Compensation Programs, has filed a letter, indicating that he will not respond to the instant appeal.

In this *pro se* appeal, we decide whether the administrative law judge's finding at Section 718.205(c) is supported by substantial evidence, and in accordance with applicable law. The administrative law judge found that Drs. Naeye, Director's Exhibit 14; Employer's Exhibit 6; Broudy, Director's Exhibit 28; Lane, Employer's Exhibit 2; and Kleinerman, Employer's Exhibit 3, all concluded that pneumoconiosis did not contribute to nor hasten the miner's death. Decision and Order at 9-10. The administrative law judge noted further that the death certificate listed as the immediate cause of death: pneumonia, with idiopathic crescentic glomerulonephritis as an underlying cause, and did not mention pneumoconiosis at all. Director's Exhibit 9; Decision and Order at 9. The administrative law judge noted that only Dr. Caintic, the treating physician, opined that pneumoconiosis contributed to the miner's death. Director's Exhibit 13; Decision and Order at 9-10. In weighing the evidence, the administrative law judge permissibly gave less weight to Dr. Caintic's opinion because he found it to be conclusory and devoid of reasoning and documentation, *see Clark v. Karst-Robbins Coal Co.*, 12 BLR 1-149 (1989)(*en banc*); *Fields v. Island Creek Coal Co.*, 10 BLR 1-19 (1989). The administrative law judge permissibly credited Dr. Naeye's opinion because

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with the Department of Labor (DOL) on October 2, 1995. Director's Exhibit 1.

of Dr. Naeye's superior credentials and because his opinion was well-documented and reasoned, and supported by the other opinions of record. *See Woodward v. Director, OWCP*, 991 F.2d 314, 17 BLR 2-77 (6th Cir. 1993); *Worhach v. Director, OWCP*, 17 BLR 1-105 (1993); Director's Exhibit 14. As it is claimant's burden to establish that the miner's pneumoconiosis was a substantial contributing cause of the miner's death, *see Griffith v. Director, OWCP*, 49 F.3d 184, 19 BLR 2-111 (6th Cir. 1995); *Shuff v. Cedar Coal Co.*, 967 F.2d 977, 16 BLR 2-90 (4th Cir. 1992); *Brown v. Rock Creek Mining Co.*, 996 F.2d 812, 17 BLR 2-135 (6th Cir. 1993); *see also Haduck v. Director, OWCP*, 14 BLR 1-29 (1990); *Neeley v. Director, OWCP*, 11 BLR 1-85 (1988), we hold that the administrative law judge's finding is supported by substantial evidence. We affirm therefore the administrative law judge's finding that the medical evidence fails to establish death due to pneumoconiosis at Section 718.205(c).

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

SO ORDERED.

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BETTY JEAN HALL, Chief  
Administrative Appeals Judge

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JAMES F. BROWN  
Administrative Appeals Judge

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MALCOLM D. NELSON, Acting  
Administrative Appeals Judge