

BRB No. 88-0778 BLA

GEORGE C. NECESSARY, Jr.)

)
Claimant-Petitioner)

)
v.)

)
WESTMORELAND COAL COMPANY)

) DATE ISSUED:
Employer-Respondent)

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

)
Party-in-Interest) DECISION and ORDER

Appeal of the Decision and Order of Clement J. Kichuk, Administrative Law
Judge, United States Department of Labor.

Joseph E. Wolfe (Wolfe & Farmer), Norton, Virginia, for claimant.

Allen R. Prunty (Jackson & Kelly), Charleston, West Virginia, for
employer.

Before: STAGE, Chief Administrative Appeals Judge, BROWN, Administrative
Appeals Judge, and LAWRENCE, Administrative Law Judge.*

PER CURIAM:

Claimant appeals the Decision and Order (85-BLA-1491) of Administrative
Law Judge Clement J. Kichuk 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, February
23, 1979, the administrative law judge considered the claim pursuant to

*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)(1988).

20 C.F.R. Part 727. After crediting claimant with 19 years of coal mine employment, the administrative law judge considered the evidence pursuant to 20 C.F.R. §727.203(a) and determined that claimant did not establish invocation of the interim presumption. The administrative law judge then determined that claimant failed to establish the existence of pneumoconiosis pursuant to 20 C.F.R. Part 410, Subpart D. Accordingly, benefits were denied. On appeal, claimant contends that the administrative law judge erred in failing to consider the claim pursuant to 20 C.F.R. §410.490, and generally contends that the administrative law judge erred in failing to invoke the interim presumption pursuant to Part 727. Employer responds in support of the administrative law judge's Decision and Order. The Director, Office of Workers' Compensation Programs has chosen not to respond in this case.

The Board's scope of review is defined by statute. The administrative law judge's findings of fact and conclusions of law must be affirmed if they are supported by substantial evidence, are rational, and are 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).

Claimant first contends that the administrative law judge erred by failing to consider his claim pursuant to Section 410.490. This contention is without merit, however, as the Board has held that a claim which is properly adjudicated pursuant to Section 727.203 is not subject to adjudication pursuant to Section 410.490. See Whiteman v. Boyle Land and Fuel Co., 15 BLR 1-11 (1991); see also Pauley v. Bethenergy Mines, Inc., 111 S.Ct. 2524, 15 BLR 2-155 (1991). As a result, claimant's contention of error is rejected. Furthermore, in the remainder of his brief, claimant simply states that the decision of the administrative law judge is not supported by substantial evidence without raising any specific error committed by the administrative law judge. The Board has consistently held that it will not address any issues on appeal that are inadequately briefed. Claimant must allege with specificity any error of fact or law committed by the administrative law judge. See 20 C.F.R. §802.211; Sarf v. Director, OWCP, 10 BLR 1-119 (1987); Slinker v. Peabody Coal Co., 6 BLR 1-465 (1983); Fish v. Director, OWCP, 6 BLR 1-107 (1983). As a result, the administrative law judge's findings that the evidence of record is insufficient to establish invocation of the interim presumption pursuant to Section 727.203(a) is affirmed.

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

SO ORDERED.

BETTY J. STAGE, Chief
Administrative Appeals Judge

JAMES F. BROWN
Administrative Appeals Judge

LEONARD N. LAWRENCE
Administrative Law Judge