

NARIENDRA SUDAMA	)	
	)	
Claimant-Petitioner	)	
	)	
v.	)	
	)	
WINDWARD MARINE	)	DATE ISSUED: 12/23/2013
	)	
and	)	
	)	
TRAVELERS INSURANCE COMPANY/ successor to METLIFE INSURANCE	)	
	)	
Employer/Carrier- Respondents	)	DECISION and ORDER

Appeal of the Decision and Order Denying Benefits of Adele Higgins Odegard, Administrative Law Judge, United States Department of Labor.

Anthony Ranieri (Law Office of Anthony Ranieri), Brooklyn, New York, for claimant.

John E. Kawczynski (Field Womack & Kawczynski, LLC), South Amboy, New Jersey, for employer/carrier.

Before: DOLDER, Chief Administrative Appeals Judge, McGRANERY and HALL, Administrative Appeals Judges.

PER CURIAM:

Claimant appeals the Decision and Order Denying Benefits (2011-LHC-01320) of Administrative Law Judge Adele Higgins Odegard rendered on a claim filed pursuant to the provisions of the Longshore and Harbor Workers' Compensation Act, as amended, 33 U.S.C. §901 *et seq.* (the Act). We must affirm the administrative law judge's findings of fact and conclusions of law if they are supported by substantial evidence, are rational, and are in accordance with law. 33 U.S.C. §921(b)(3); *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

Claimant sustained a work-related injury on July 11, 2007, when he slipped and fell into an open manhole during the course of his employment at as ultrasound technician. The emergency room records note a rib injury. CX 1. Employer voluntarily paid claimant compensation for temporary total disability from July 12 to July 23, 2007. Claimant returned to light-duty work for employer during July and August 2007; thereafter, claimant resumed his usual duties until he informed employer in December 2008 that he would stop working due to back pain. Tr. at 12-16, 19-23. He has not returned to work. Claimant filed a claim asserting that his back condition is related to the July 11, 2007 work injury.

In her decision, the administrative law judge found claimant entitled to the Section 20(a) presumption, 33 U.S.C. §920(a), linking his back condition to the work injury, that employer had rebutted the presumption, and that, based on the record as a whole, claimant fail to establish he had sustained a work-related back injury Decision and Order at 11-13. Accordingly, benefits were denied.

On appeal, claimant challenges the administrative law judge's findings that his back condition is not related to the work injury, that he did not sustain a loss of wage-earning capacity while working for employer, and that he is not entitled to compensation for permanent total disability. Employer responds, urging affirmance.

After consideration of the administrative law judge's decision, the arguments raised on appeal, and the evidence of record, we affirm the administrative law judge's Decision and Order Denying Benefits as it is supported by substantial evidence and contains no reversible error. *O'Keefe*, 380 U.S. 359. The administrative law judge rationally found the Section 20(a) presumption rebutted, based on the opinion of Dr. Bercik that there is no relation between claimant's back complaints and the work injury. *See Rainey v. Director, OWCP*, 517 F.3d 632, 42 BRBS 11(CRT) (2<sup>d</sup> Cir. 2008). The administrative law judge also rationally found that the record evidence as a whole does not support claimant's assertion that his back complaints are related to the work injury. In addition to the opinion of Dr. Bercik, the administrative law judge found most probative claimant's emergency room records which did not indicate claimant complained of his back, and the injury histories recorded by Drs. Abrams and Piazza in November 2008 and by Dr. Misra in February 2010, which note claimant's statements that his back condition was not due to any trauma. Decision and Order at 12; CX 1 at Feb. 1, 2010 report. The Board is not empowered to reweigh the evidence, and the administrative law judge's weighing of the evidence must be affirmed if it is rational and supported by substantial evidence.<sup>1</sup> *See generally Sealand Terminals, Inc. v. Gasparic*, 7

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<sup>1</sup>Moreover, claimant's Petition for Review and brief make arguments and discuss favorable evidence, but do not address the issues in relation to the administrative law judge's finding that claimant did not establish that his back condition is related to the July 2007 work injury. Mere recitation of favorable evidence is insufficient to demonstrate

F.3d 321, 28 BRBS 7(CRT) (2<sup>d</sup> Cir. 1993). We affirm the administrative law judge's finding that claimant's back condition is not related to the July 2007 work injury as it is supported by substantial evidence of record.<sup>2</sup> See generally *Service Employees Int'l, Inc. v. Director, OWCP [Barrios]*, 595 F.3d 447, 44 BRBS 1(CRT) (2<sup>d</sup> Cir. 2010).

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

SO ORDERED.

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NANCY S. DOLDER, Chief  
Administrative Appeals Judge

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REGINA C. McGRANERY  
Administrative Appeals Judge

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BETTY JEAN HALL  
Administrative Appeals Judge

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error in the administrative law judge's decision. *Collins v. Oceanic Butler, Inc.*, 23 BRBS 227 (1990); see also *Plappert v. Marine Corps Exchange*, 31 BRBS 109, *aff'g on recon. en banc* 31 BRBS 13 (1997); 20 C.F.R. §802.211(b).

<sup>2</sup>We, therefore, need not address claimant's remaining arguments.