

JOSE T. GARCIA)	
)	
Claimant-Petitioner)	
)	
v.)	
)	
TODD PACIFIC SHIPYARDS)	
CORPORATION)	
)	DATE ISSUED: _____
and)	
)	
AETNA CASUALTY AND SURETY)	
COMPANY)	
)	
Employer/Carrier-)	
Respondents)	DECISION and ORDER

Appeal of the Decision and Order of Robert L. Ramsey, Administrative Law Judge, United States Department of Labor.

James M. McAdams (Pierry & Moorhead), Wilmington, California, for claimant.

Eugene L. Chrzanowski (Laughlin, Falbo, Levy & Moresi), Long Beach, California, for employer.

Before: SMITH, BROWN and DOLDER, Administrative Appeals Judges.

PER CURIAM:

Claimant appeals the Decision and Order (88-LHC-2709, 88-LHC-2710, 88-LHC-2711, 88-LHC-2712, 88-LHC-2713) of Administrative Law Judge Robert L. Ramsey denying benefits 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 applicable law. O'Keefe v. Smith, Hinchman & Grylls Associates, Inc., 380 U.S. 359 (1965); 33 U.S.C. §921(b)(3).

Claimant worked for employer as a sheet metal mechanic from 1978 through December 1986 when he was laid off due to a shortage of work. During this period, claimant suffered numerous work-related injuries for which he filed claims under the Act. On

September 27, 1983, claimant suffered injuries to his low back, right leg, and groin. On December 2, 1983, claimant suffered a right elbow laceration, and on March 20, 1984, claimant injured his right wrist and shoulder. On September 6, 1985, claimant hurt his low back and right leg and suffered a right side hernia, for which he underwent an operation. He was on layoff status during most of his disability, and he returned to work in August 1986. In November 1986, claimant injured his upper back, neck, and right groin. He continued to work his regular job until he was laid off in December 1986. Claimant was recalled by employer in December 1987, but he never returned to work, claiming his doctor placed him on disability and he could not return. In February 1988, employer terminated claimant's employment for failure to return upon recall without explanation or documentation.

A hearing was held, wherein the parties stipulated, inter alia, that: a) employer furnished medical care for claimant following each injury, except that it only paid certain expenses following the November 13, 1986 injury; b) claimant lost no time from work as a result of the injuries he sustained on September 27, 1983, December 2, 1983 and March 20, 1984; c) claimant was adequately compensated for lost time from work as a result of his September 6, 1985 injuries; and d) employer did not pay temporary total disability benefits following claimant's November 13, 1986 injury. Decision and Order at 2. The parties disputed the nature and extent of claimant's disability, the applicable average weekly wage and claimant's entitlement to additional medical care in connection with the November 1986 injury, and the applicability of Section 8(f), 33 U.S.C. §908(f). Id. The administrative law judge denied claimant any additional compensation, finding that none of his injuries resulted in a permanent impairment. Further, the administrative law judge found that employer paid claimant all the compensation and medical benefits to which claimant was entitled. Decision and Order at 3-6.

Claimant appealed the administrative law judge's decision and, simultaneously, filed a Motion for Remand for a New Hearing. Employer responded to both filings. In his motion, claimant averred there was the appearance of a conflict of interest as the administrative law judge, prior to deciding this case, may have made a commitment to join a law firm which represents employer in other cases. Because of a lack of sufficient basis, the Board denied claimant's motion. Order dated June 14, 1990. In his appeal, claimant contends the administrative law judge erred in finding that claimant is not disabled and in failing to adequately specify the rationale for his findings pursuant to the Administrative Procedure Act, 5 U.S.C. §551 et seq. Additionally, claimant reasserts the issue of the appearance of a conflict of interest by the administrative law judge which, he contends, should have precluded the administrative law judge from deciding this case. Section 556 of the Administrative Procedure Act, 5 U.S.C. §556, provides for the disqualification of an administrative law judge in the event of a conflict of interest. We note, however, that claimant offers no evidence in addition to

that previously considered by the Board. We, therefore, reject claimant's contention on appeal.

Claimant also contends the administrative law judge failed to adequately explain his rationale and conclusions in denying benefits. Section 557(c) of the Administrative Procedure Act requires an administrative law judge to include in his decision a statement of "findings and conclusions, and the reasons or basis therefor, on all material issues of fact, law or discretion presented on the record. . . ." 5 U.S.C. §557(c)(3)(A). Thus, he must fully explain his findings, conclusions, and weighing of the evidence. Cotton v. Newport News Shipbuilding & Dry Dock Co., 23 BRBS 380 (1990); McCurley v. Kiewest Co., 22 BRBS 115 (1989). Failure to independently analyze and discuss the medical evidence of record is a violation of the Administrative Procedure Act's requirement for a reasoned analysis. McCurley, 22 BRBS at 119; Williams v. Newport News Shipbuilding & Dry Dock Co., 17 BRBS 61 (1985).

In this case, there is conflicting medical evidence with regard to the nature and extent of claimant's disability. Emp. Exs. 70-73; Cl. Exs. 18-21, 23-27. Specifically, Dr. Rhodes, claimant's treating physician, stated that claimant has a permanent impairment due to his numerous back and groin injuries and should be rehabilitated for less strenuous work. Cl. Ex. 27; Tr. at 85, 92, 127. Dr. Lorman, who examined claimant at employer's request, found that claimant's injuries did not result in a permanent impairment, that claimant did not need medical treatment for his condition beyond January 1987, and that claimant should return to his usual work. Emp. Ex. 71, 73; Tr. at 51.

The administrative law judge, however, specifically credited only one medical report in his decision. In connection with claimant's September 1983 injury, the administrative law judge credited Dr. Lorman's August 8, 1986 opinion that claimant "suffered a mild low back strain with no evidence of residual damage." Decision and Order at 3; Emp. Ex. 71. At no other time did the administrative law judge identify which evidence he credited or how he weighed the evidence in determining that claimant is not disabled. Although he twice stated that his decision was based on a review of the medical reports, the administrative law judge gave no reason for accepting Dr. Lorman's opinion over that of Dr. Rhodes with respect to the September 1983 injury and he did not specify which evidence he credited in denying benefits for the November 1986 injury. Decision and Order at 4, 6. Further, the administrative law judge did not discuss the medical opinion of Dr. Afzali, who, in 1986, agreed with a portion of each of the above medical opinions. Cl. Ex. 33-37. The administrative law judge's failure to explicitly discuss and weigh all of the evidence of record makes it impossible for the Board to apply its standard of review. McCurley, 22 BRBS at 119-120.

Consequently, we vacate the administrative law judge's denial of benefits. On remand, the administrative law judge must consider and discuss all of the evidence relevant to the issues in this case, make findings of fact and conclusions of law based on the relevant law and evidence, and give an explanation of the reasons and basis for those determinations.

Accordingly, the Decision and Order of the administrative law judge is vacated and the case is remanded for further consideration in accordance with this decision.

SO ORDERED.

ROY P. SMITH
Administrative Appeals Judge

JAMES F. BROWN
Administrative Appeals Judge

NANCY S. DOLDER
Administrative Appeals Judge