

JAMES CHEEK)	
)	
Claimant-Petitioner)	
)	
v.)	
)	
NORFOLK SHIPBUILDING AND)	
DRYDOCK CORPORATION)	DATE ISSUED:
)	
Self-Insured)	
Employer-Respondent)	DECISION AND ORDER

Appeal of the Decision and Order - Denying Benefits of Robert M. Glennon, Administrative Law Judge, United States Department of Labor.

James Cheek, Danielson, Connecticut, *pro se*.

Before: BROWN and McGRANERY, Administrative Appeals Judges, and SHEA, Administrative Law Judge.*

PER CURIAM:

Claimant, representing himself, appeals the Decision and Order - Denying Benefits (85-LHC-2144) of Administrative Law Judge Robert M. Glennon 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). In reviewing this *pro se* appeal, the Board must affirm the administrative law judge's findings of fact and conclusions of law if they are rational, supported by substantial evidence, and in accordance with law. *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965); 33 U.S.C. §921(b)(3); 20 C.F.R. §§802.211(e), 802.220.

Claimant injured his chest and back while working for employer as a machinist on December 2, 1980. Employer voluntarily paid claimant temporary total disability benefits from December 9, 1980 through December 17, 1980. 33 U.S.C. §908(b). Claimant returned to work on December 18, 1980, and remained employed through December 29, 1980, at which time claimant testified that he was sent home by employer. Tr. at 34. Employer's separation report dated December 31, 1980, however, indicates that claimant voluntarily quit because he was leaving the area and that claimant was eligible for rehire. EX-8.

*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).

Thereafter, claimant returned to his home in Tennessee, and eventually moved to

Connecticut. Claimant testified that he has subsequently worked at various jobs including construction, carpentry, drywall and roofing work, and at the time of the hearing was working as a press machine operator. Tr. at 36-50. In his Decision and Order, the administrative law judge determined that claimant sustained no permanent disability as a result of his December 1980 work incident; accordingly, the administrative law judge denied the instant claim for compensation.

On appeal, claimant, appearing *pro se*, challenges the administrative law judge's denial of his claim for compensation. Employer has not responded to this appeal.

It is well-established that claimant bears the burden of establishing the nature and extent of any disability sustained as a result of a work-related injury. *See Anderson v. Todd Shipyards Corp.*, 22 BRBS 20 (1989); *Trask v. Lockheed Shipbuilding and Construction Co.*, 17 BRBS 56 (1985). In the instant case, the administrative law judge, in concluding that claimant did not sustain a compensable impairment subsequent to December 1980, credited and relied upon the opinion of Dr. Heywood over the opinion of Dr. Free, noting that Dr. Heywood had stronger credentials as an orthopedic physician and that Dr. Heywood presented a more detailed and persuasive analysis. In March 1983, Dr. Heywood found claimant's lumbar spine x-rays to be essentially normal, and opined that claimant had undergone a "normal orthopedic examination." EX-11. Dr. Heywood's evaluation is supported by the opinion of Dr. Williamson who, on December 18, 1980, opined that claimant exhibited no evidence of disability and was capable of returning to his regular occupational duties. EX-7. In contrast, Dr. Free, a chiropractor, opined in a 1986 report that claimant's prognosis is poor and that claimant sustained a 50 percent permanent partial disability. CX-11.

We hold that the administrative law judge committed no error in relying upon the testimony of Dr. Heywood, as supported by the opinion of Dr. Williamson, rather than the testimony of Dr. Free in concluding that claimant sustained no continued impairment subsequent to December 1980. In adjudicating a claim, it is well-established that an administrative law judge is entitled to weigh the medical evidence and draw his own inferences from it, *see Wheeler v. Interocean Stevedoring, Inc.*, 21 BRBS 33 (1988), and he is not bound to accept the opinion or theory of any particular witness. *See Todd Shipyards Corp. v. Donovan*, 300 F.2d 741 (5th Cir. 1962). Thus, as the administrative law judge's credibility determinations are rational and within his authority as factfinder, and as these credited opinions constitute substantial evidence to support the administrative law judge's ultimate findings, we affirm the administrative law judge's determination that claimant sustained no impairment subsequent to December 1980.¹ *See generally Cordero v. Triple A Machine Shop*, 580 F.2d 1331, 8 BRBS 744 (9th Cir. 1978), *cert. denied*, 440 U.S. 911 (1979). Therefore, the administrative law judge's denial of compensation is affirmed.

Lastly, as we affirm the administrative law judge's finding that claimant's physical condition had resolved in December 1980, we hold that the administrative law judge committed no reversible error in failing to award claimant medical expenses subsequent to that date. *See Wheeler*, 21 BRBS at 33.

¹We note that the administrative law judge acted within his discretion in declining to credit claimant's subjective complaints of pain. *See Donovan*, 300 F.2d at 741.

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

SO ORDERED.

JAMES F. BROWN
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge

ROBERT J. SHEA
Administrative Law Judge