BRB No. 92-0942

STOJAN RIMINIC	)	
	)	
Claimant-Petitioner	)	
	)	
v.	)	
	)	
ATLANTIC CONTAINER LINES	)	DATE ISSUED
	)	
and	)	
	)	
NEW JERSEY MANUFACTURERS INSURANCE COMPANY	)	
	)	
	)	
Employer/Carrier-Respondents	)	DECISION and ORDER

Appeal of the Decision and Order - Denying Benefits of Ralph A. Romano, Administrative Law Judge, United States Department of Labor.

Philip J. Rooney (Israel, Adler, Ronca & Gucciardo), New York, New York, for claimant.

Leonard J. Linden (Linden & Gallagher), New York, New York, for employer/carrier.

Before: DOLDER, Acting Chief Administrative Appeals Judge, SMITH, Administrative Appeals Judge, and SHEA, Administrative Law Judge.*

PER CURIAM:

Claimant appeals the Decision and Order - Denying Benefits (91-LHC-00360) of Administrative Law Judge Ralph A. Romano 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 findings of fact and conclusions of law of the administrative law judge 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).

*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).

Claimant injured his right eyebrow, back, and left knee on May 9, 1985, when he was thrown from the hilo he was driving while working for employer. From May 10, 1985, until January 4, 1986, employer paid claimant temporary total disability compensation, 33 U.S.C. §908(b);

following his return to work on January 5, 1986, claimant received a permanent partial disability award under the schedule for a four percent loss of use of his right leg. 33 U.S.C. §908(c)(2). Following his return to work, claimant, although allegedly performing light duty work, continued to earn the same wages as before his injury. On December 31, 1989, claimant voluntarily retired after being offered an enhanced pension plan by his union. Claimant thereafter filed a claim under the Act seeking permanent total disability compensation or, alternatively, permanent partial disability compensation based upon a 50 percent scheduled loss of use of his right leg.

In his Decision and Order, the administrative law judge found that claimant had returned to work for employer in 1986, that claimant continued working for approximately four years with no loss in wage-earning capacity, and that claimant acknowledged that but for the pension offer he probably would have continued working for employer. Next, the administrative law judge credited the opinions of Drs. Patel and Seslowe, over the opinion of Dr. Margolis, in concluding that claimant had sustained no further disability beyond that for which he had already been compensated by employer. Accordingly, the administrative law judge denied the instant claim for compensation.

On appeal, claimant challenges the administrative law judge's denial of his claim for benefits. Employer responds, urging affirmance.

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 suffer from a compensable impairment subsequent to his return to work in January 1986, found that claimant's return to work for four years at his pre-injury wages and his voluntary retirement for non-medical reasons evidenced that claimant suffered no further disability than that for which he had already been compensated.[1] In arriving at this conclusion, the administrative law judge additionally credited and relied upon the opinions of Drs. Patel and Seslowe over the opinion of Dr. Margolis. Dr. Patel, claimant's treating physician, released claimant to return to work on December 23, 1985. EX 3(a). Dr. Seslowe, an impartial medical examiner, opined in July 1990 that claimant suffered only from the disability to his right leg for which he had already been compensated. EX 1. The administrative law judge noted that these two credited physicians' opinions were supported by the opinions of Dr. Kapland, who found no disability, EX 10, and Dr. Stillman, who found claimant capable of returning to work in January 1986. EX 11. Lastly, in declining to credit Dr. Margolis' opinion that claimant was permanently and totally disabled as of January 9, 1989, *see* CX 7, the administrative law judge noted that claimant continued working for employer through December 1989.

[1]We note that although claimant allegedly returned to a light duty position in 1986, neither party contends that this job did not constitute suitable alternate employment based on claimant's performance of the tasks which were necessary and profitable to employer. *Peele v. Newport News Shipbuilding & Dry Dock Co.*, 20 BRBS 133, 136 (1987); *Darden v. Newport News Shipbuilding & Dry Dock Co.*, 18 BRBS 224, 226 (1986).

We hold that the administrative law judge committed no error in relying upon the testimony of Drs. Patel and Seslowe, as supported by the opinions of Drs. Kapland and Stillman, rather than the opinion of Dr. Margolis, in concluding that claimant sustained no compensable impairment subsequent to December 1985. 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 a 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 suffered no compensable impairment subsequent to December 1985. *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, claimant contends that the administrative law judge's decision violates the Administrative Procedure Act (APA). We disagree. Decisions rendered under the Act are subject to the APA, which requires that every adjudicatory decision be accompanied by a statement of "findings and conclusions, and the reasons or basis therefor, on all material issues of fact, law or discretion presented in the record." 5 U.S.C. §557(c)(3)(A). The administrative law judge must adequately detail the rationale behind his decision and specify the evidence upon which he relied. *See Cairns v. Matson Terminals, Inc.*, 21 BRBS 252 (1988); *Ballesteros v. Willamette Western Corp.*, 20 BRBS 184 (1988); *Williams v. Newport News Shipbuilding & Dry Dock Co.*, 17 BRBS 61 (1985); *Williams v. Nicole Enterprises*, 15 BRBS 453 (1983). In the instant case, the administrative law judge detailed the medical evidence and the reasons for his reliance upon those doctors whom he credited. Thus, as the administrative law judge adequately detailed the rationale behind his decision, his decision meets the standards of the APA.

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

SO ORDERED.

NANCY S. DOLDER, Acting Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

ROBERT J. SHEA
Administrative Law Judge