

ALARICK WRIGHT	)	
	)	
Claimant-Petitioner	)	
	)	
v.	)	
	)	
AVONDALE SHIPYARDS,	)	DATE ISSUED: _____
INCORPORATED	)	
	)	
Self-Insured	)	
Employer-Respondent	)	DECISION and ORDER

Appeal of the Decision and Order Awarding Benefits of E. Earl Thomas, Administrative Law Judge, United States Department of Labor.

Frank A. Bruno (Bruno & Bruno), New Orleans, Louisiana, for claimant.

John M. Holahan, Jr. (Jones, Walker, Waechter, Poitevent, Carrere & Denegre), New Orleans, Louisiana, for employer.

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

PER CURIAM:

Claimant appeals the Decision and Order Awarding Benefits (87-LHC-2350) of Administrative Law Judge E. Earl Thomas 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).

Claimant, a sandblaster and painter, sought benefits for a work-related injury he sustained when he fell from the back of a truck on March 13, 1986. Claimant returned to work for one day following this incident but left due to his injury; he has not returned to work thereafter. Employer paid temporary total disability benefits from March 15, 1986 to July 8, 1986. 33 U.S.C. §908(b). On July 9, 1986, employer notified claimant of its Restricted Work Duty Program; claimant chose not to participate. Hearing Transcript 32-33, 47-48, 73-76. Claimant sought permanent total disability benefits under the Act; employer controverted the claim, and a hearing was held before the administrative law judge on May 5, 1988.

In the Decision and Order, the administrative law judge awarded claimant temporary total disability benefits from March 15, 1986 through July 8, 1986, and temporary partial disability

benefits from July 9, 1986 to January 24, 1987. The administrative law judge, having credited the opinion of Dr. Landry over the opinion of Dr. Seltzer, claimant's treating physician, thereafter determined that claimant had no residual disability subsequent to January 24, 1987. Lastly, the administrative law judge ordered employer to reimburse claimant for certain medical expenses pursuant to Section 7 of the Act, 33 U.S.C. §907.

On appeal, claimant challenges the administrative law judge's denial of benefits for continued compensation. Employer responds, urging affirmance.<sup>1</sup>

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 & Construction Co.*, 17 BRBS 56 (1985). In order to establish a *prima facie* case of total disability, claimant bears the burden of establishing that he is unable to return to his usual work. *Blake v. Bethlehem Steel Corp.*, 21 BRBS 49 (1988). In the instant case, the administrative law judge, in concluding that claimant sustained no residual impairment subsequent to January 24, 1987, credited the opinion of Dr. Landry over the opinion of Dr. Seltzer, noting that Dr. Landry was apprised of claimant's prior medical history including injuries claimant sustained in 1981 and 1984, and that Dr. Landry's opinion that there were no objective findings represented the prevailing medical view of record. Dr. Landry, in reports dated January 24, 1987 and February 24, 1987, opined that claimant had no objective findings and should be able to return to work. *See Employer's Exhibit 2.* Dr. Landry's evaluation is supported by the reports of Drs. Voorhies, Johnson and Mabey, each of whom found that claimant exhibited a lack of physical abnormalities. *See Employer's Exhibits 1, 10, 12.* In contrast, Dr. Seltzer testified that he would have kept claimant off work until June 1987.

We hold that the administrative law judge committed no error in relying upon the opinion of Dr. Landry rather than the opinion of Dr. Seltzer in concluding that claimant sustained no residual disability subsequent to January 24, 1987. The 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 required to accord controlling weight to the opinion of a treating physician. *Phillips v. Newport News Shipbuilding and Dry Dock Co.*, 22 BRBS 94 (1988). 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 permanent disability after January 24, 1987. *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).

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

---

<sup>1</sup>We decline to address employer's arguments which challenge the administrative law judge's determination that employer is liable for various medical expenses incurred by claimant since they are not raised in a cross-appeal. *Garcia v. National Steel and Shipbuilding Co.*, 21 BRBS 314 (1988).

SO ORDERED.

BETTY JEAN HALL, Chief  
Administrative Appeals Judge

ROY P. SMITH  
Administrative Appeals Judge

NANCY S. DOLDER  
Administrative Appeals Judge