BRB No. 89-3242

LUIS MUNOZ	)	
	)	
Claimant-Petitioner	)	
	)	
v.	)	
	)	
SEA LAND SERVICE, INCORPORATED	)	DATE ISSUED:
	)	
	)	
Self-Insured Employer-Respondent	)	DECISION and ORDER

Appeal of the Decision and Order of Paul H. Teitler, Administrative Law Judge, United States Department of Labor.

Luis Munoz, Elizabeth, New Jersey, *pro se*.

Keith L. Flicker and Richard L. Garelick (Flicker & Associates), New York, New York, for self-insured employer.

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

PER CURIAM:

Claimant, appearing without representation, appeals the Decision and Order (88-LHC-3275) of Administrative Law Judge Paul H. Teitler 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 findings of fact and conclusions of law of the administrative law judge which are rational, supported by substantial evidence, and in accordance with law. 33 U.S.C. §921(b)(3); 20 C.F.R. §§802.211(e), 802.220; *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

Employer voluntarily paid claimant temporary total disability benefits from March 31, 1988 through May 28, 1988 for an injury to his lower back which claimant sustained on March 30, 1988, while he was working for employer. Claimant returned to his usual job on June 13, 1988, and has been employed in that capacity throughout these proceedings. At the hearing before the administrative law judge, the disputed issues included claimant's entitlement to additional total disability compensation and whether employer should be required to furnish claimant with Magnetic Resonance Imaging (MRI) testing.

Crediting the opinion of Dr. Gallick that claimant exhibited no objective findings and was

capable of performing his usual work as of May 23, 1988, over the contrary opinions of Dr. Patel, his treating family physician, and Dr. Magliato, an independent medical examiner, and discrediting claimant's complaints of ongoing pain, the administrative law judge determined that claimant had fully recovered from the effects of his work-related injury as of May 23, 1988. Accordingly, he found that claimant was not entitled to additional compensation after that date and declined to order employer to provide the MRI requested by claimant. Claimant, appearing without representation, appeals the denial of benefits. Employer responds, urging affirmance.

We affirm the administrative law judge's denial of additional disability compensation because his finding that claimant had fully recovered from the effects of the work injury and could perform his usual work as of May 23, 1988, is rational, supported by substantial evidence, and comports with applicable law. *O'Keeffe*, 380 U.S. at 359. In determining that claimant was capable of performing his usual work as of May 23, 1988, the administrative law judge rationally found claimant's testimony alleging continuing disabling back pain could not be credited. Moreover, the administrative law judge's decision to credit Dr. Gallick's opinion over that of Dr. Patel in light of Dr. Gallick's superior credentials as an orthopedic surgeon, the fact that he had the benefit of a complete history whereas Dr. Patel did not,[1] and the fact that his opinion was consistent with claimant's negative x-ray and inconclusive CT scan results was neither inherently incredible nor patently unreasonable. *Cordero v. Triple A Machine Shop*, 580 F.2d 1331, 1335, 8 BRBS 744, 747 (9th Cir. 1978), *cert. denied*, 440 U.S. 911 (1979).

The administrative law judge is not bound to accept the opinion of any particular medical expert, but is free to accept or reject all or any part of any medical evidence as he sees fit. *Avondale Shipyards, Inc. v. Kennel*, 914 F.2d 88, 24 BRBS 46 (CRT) (5th Cir. 1990). Inasmuch as Dr. Gallick's opinion that claimant could return to his usual work, in conjunction with the negative objective evidence and the administrative law judge's negative assessment of claimant's credibility, provides substantial evidence to support his finding that claimant fully recovered from his work-related injury and was able to perform his usual work as of May 23, 1988, we affirm his denial of additional compensation after this date. *See generally Hawthorne v. Ingalls Shipbuilding, Inc.*, 28 BRBS 73, 76 (1994), *modified on other grounds on recon.*, 29 BRBS 103 (1995); *Thompson v. Northwest Enviro Services, Inc.*, 26 BRBS 53 (1992); *Canty v. S.E.L. Maduro*, 26 BRBS 147 (1992). In light of our affirmance of the administrative law judge's finding that claimant fully recovered from the work injury as of May 23, 1988, his refusal to order the requested MRI is also affirmed, as this diagnostic procedure is not treatment necessary for a work-related condition. 33 U.S.C. §907; *See Brooks v. Newport News Shipbuilding & Dry Dock Co.*, 26 BRBS 1 (1992), *aff'd sub nom. Brooks v. Director, OWCP*, 2 F.3d 64, 27 BRBS 100 (CRT) (4th Cir. 1993).

Accordingly, the Decision and Order of the administrative law judge denying benefits is affirmed.

SO ORDERED.

[1]Dr. Patel testified that she was unaware of claimant's prior injuries. Depo. at 12-13.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge