

E.P. )  
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 Claimant-Petitioner )  
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 v. )  
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 I.M.C. PHOSPHATES ) DATE ISSUED: 09/25/2008  
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 and )  
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 TRAVELERS CASUALTY AND SURETY )  
 COMPANY )  
 )  
 Employer/Carrier- )  
 Respondents ) DECISION and ORDER

Appeal of the Decision and Order – Denying Benefits of Alan L. Bergstrom, Administrative Law Judge, United States Department of Labor.

Barry R. Lerner (Barnett & Lerner, P.A.), Dania Beach, Florida, for claimant.

Richard S. Vale and Pamela F. Noya (Blue Williams, L.L.P.), Metairie, Louisiana, for employer/carrier.

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

PER CURIAM:

Claimant appeals the Decision and Order – Denying Benefits (2005-LHC-2216) of Administrative Law Judge Alan L. Bergstrom 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 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 law. 33 U.S.C. §921(b)(3); *O’Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

Claimant filed a claim asserting that the cervical and lumbar spine injuries which have caused his inability to work since December 8, 2000, arose from a fall which allegedly occurred during the course of his work for employer on May 8, 1997. In his decision, the administrative law judge found that claimant did not establish that the accident actually occurred, and that, therefore, he is not entitled to invocation of the Section 20(a) presumption. 33 U.S.C. §920(a). The administrative law judge also found that there is no medical evidence linking claimant's injuries to a work accident. Decision and Order at 40, 42. Alternatively, the administrative law judge found that even if the alleged accident of May 8, 1997, occurred and resulted in a work-related injury, claimant did not give timely notice to the employer as required by Section 12 of the Act, 33 U.S.C. §912, and 20 C.F.R. §702.212(a)(1) and (a)(2). Decision and Order at 41. Accordingly, the administrative law judge denied claimant benefits.

On appeal, claimant argues that the administrative law judge erred in finding that he did not provide timely notice to employer of the May 8, 1997, incident. Employer responds, urging affirmance of the administrative law judge's decision.

We need not address claimant's contentions with regard to the timely notice issue, because claimant has not raised any contentions of error with regard to the administrative law judge's findings that claimant is not entitled to invocation of the Section 20(a) presumption, and thus, did not establish a work-related injury. The administrative law judge extensively reviewed the evidence and made credibility determinations regarding the occurrence of the alleged accident. Decision and Order at 36-40. Although claimant, in summarizing his appeal, states that he "believes he has established a *prima facie* case to invoke the Section 20(a) presumption," and alleges that the court "failed to evaluate the facts in their entirety; thus, rendering the entire opinion reversible," Cl. Br. at 11, he does not further address the issue or raise any specific arguments relating to the administrative law judge's findings regarding the occurrence of the work accident or the cause of claimant's physical impairments. Thus, as the causation issue is inadequately briefed, we affirm the administrative law judge's conclusion that claimant did not establish that his cervical and lumbar conditions are related to his work for employer. *See, e.g., Plappert v. Marine Corps Exch.*, 31 BRBS 13, 18 n.4 (1997), *aff'd on recon. en banc*, 31 BRBS 109, 111 (1997); *West v. Washington Metropolitan Area Transit Authority*, 21 BRBS 125 (1988); *Shoemaker v. Schiavone & Sons, Inc.*, 20 BRBS 214, 218 (1988); 20 C.F.R. §802.211(b).<sup>1</sup> Since the existence of a work-related injury is a

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<sup>1</sup> Section 802.211(b), 20 C.F.R. §802.211(b), of the Board's regulations states, in pertinent part:

Each petition for review shall be accompanied by a supporting brief . . . which: Specifically states the issues to be considered by the Board; presents . . . an argument with respect to each issue presented with references [to the

prerequisite to any award of benefits under the Act, *see* 33 U.S.C. §902(2); *U.S. Industries/Federal Sheet Metal, Inc. v. Director, OWCP*, 455 U.S. 608, 14 BRBS 631 (1982), the lack thereof obviates the Board's need to address claimant's arguments regarding the notice of injury provisions. *See Scilio v. Ceres Marine Terminals, Inc.*, 41 BRBS 57 (2007). Consequently, we affirm the administrative law judge's denial of benefits.

Accordingly, we affirm the administrative law judge's Decision and Order - Denying Benefits.

SO ORDERED.

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NANCY S. DOLDER, Chief  
Administrative Appeals Judge

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ROY P. SMITH  
Administrative Appeals Judge

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JUDITH S. BOGGS  
Administrative Appeals Judge

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record]; a short conclusion stating the precise result the petitioner seeks on each issue and any authorities upon which the petition relies to support such proposed result.