

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

Appeal of the Decision and Order of C. Richard Avery, Administrative Law Judge, United States Department of Labor.

Tyree Warner, Prentiss, Mississippi, *pro se*.

Thomas M. Nosewicz (Jones, Walker, Waechter, Poitevent, Carrere & Denegre, L.L.P.), New Orleans, Louisiana, for employer.

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

PER CURIAM:

Claimant, representing himself, appeals the Decision and Order (82-LHC-2540) of Administrative Law Judge C. Richard Avery 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 an appeal by a claimant without representation, the Board will review the administrative law judge's findings of fact and conclusions of law to determine 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).

This is the second time that this case is before the Board. Claimant sought benefits under the Act for incidents which occurred on January 16, 1981, when claimant was struck by a shackle, and on May 22, 1981, when claimant engaged in a verbal altercation with his supervisor; both incidents resulted in claimant's suffering attacks of atrial fibrillation. As a result of the second incident, claimant was hospitalized for seven days and has not returned to work for this employer since that time.

In the initial Decision and Order, Administrative Law Judge Walker found that a causal

relationship between claimant's condition and his employment had not been established based upon the medical evidence of record; accordingly, he denied benefits. On appeal, the Board reversed the finding of no causal relationship between claimant's atrial fibrillation and his employment and remanded the case to the administrative law judge for consideration of all remaining issues. *Warner v. Avondale Shipyards, Inc.*, BRB No. 83-1260 (June 26, 1987)(unpublished).

On remand, Administrative Law Judge Avery found that claimant was entitled to temporary total disability compensation from May 22, 1981, through June 7, 1981, based upon claimant's seven days of hospitalization and Dr. Moore's opinion that it would require seven to ten days to recover from the deconditioning that occurs to individuals while confined in a hospital. Claimant, without benefit of counsel, appeals this decision to this Board. Employer responds, urging affirmance of the administrative law judge's decision.

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 June 7, 1981, credited and relied upon the opinions of Drs. Moore, Waits, Falterman, Arrington, and Pace, all of whom opined that claimant was capable of performing his usual job, over the contrary opinion of Dr. Classen, based upon their superior credentials and Dr. Classen's failure to specifically delineate the basis of claimant's disabling weakness. *See Decision and Order at 5-6.*

We hold that the administrative law judge committed no error in relying upon the testimony of Drs. Moore, Waits, Falterman, Arrington, and Pace, rather than that of Dr. Classen in concluding that claimant sustained no continued impairment subsequent to June 7, 1981. 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 sustained no impairment subsequent to June 7, 1981.¹ *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).

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 is affirmed.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge