

BRB No. 05-0281 BLA

MINNIE RATLIFF)	
(Widow of BILLY RATLIFF))	
)	
Claimant-Petitioner)	
v.)	
)	
DIRECTOR, OFFICE OF WORKERS')	DATE ISSUED: 08/10/2005
COMPENSATION PROGRAMS, UNITED)	
STATES DEPARTMENT OF LABOR)	
)	
Respondent)	DECISION and ORDER

Appeal of the Decision and Order - Denying Benefits of Edward Terhune Miller, Administrative Law Judge, United States Department of Labor.

Thomas W. Moak (Moak & Nunnery, P.S.C.), Prestonsburg, Kentucky, for claimant.

Rita Roppolo (Howard M. Radzely, Solicitor of Labor, Donald S. Shire, Associate Solicitor; Rae Ellen Frank James, Deputy Associate Solicitor; Michael J. Rutledge, Counsel for Administrative Litigation and Legal Advice), Washington, D.C., for the Director, Office of Workers' Compensation Programs, United States Department of Labor.

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

PER CURIAM:

Claimant appeals the Decision and Order - Denying Benefits (2004-BLA-5211) of Administrative Law Judge Edward Terhune Miller rendered on a survivor's claim filed pursuant to the provisions of Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended, 30 U.S.C. §901 *et seq.* (the Act). The administrative law judge found that the evidence was insufficient to establish that the miner's death was due to pneumoconiosis pursuant to 20 C.F.R. §718.205(c). Accordingly, the administrative law judge denied benefits on the survivor's claim.¹

¹ The miner, Billy Ratliff, was awarded benefits on his claim on January 8, 1997.

On appeal, claimant asserts that the administrative law judge erred in finding the medical evidence insufficient to establish that the miner's death was due to pneumoconiosis pursuant to Section 718.205(c). The Director, Office of Workers' Compensation Programs, (the Director) responds, urging affirmance of the administrative law judge's denial of benefits.

The Board's scope of review is defined by statute. If the administrative law judge's findings of fact and conclusions of law are supported by substantial evidence, are rational and are consistent with applicable law, they are binding upon this Board and may not be disturbed. 33 U.S.C. §921(b)(3), as incorporated into the Act by 30 U.S.C. §932(a); *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

In order to establish entitlement to benefits in a survivor's claim filed on or after January 1, 1982, claimant must establish that the miner suffered from pneumoconiosis arising out of coal mine employment and that the miner's death was due to pneumoconiosis. Death is due to pneumoconiosis where pneumoconiosis was a substantially contributing cause or factor leading to the miner's death, where death was caused by complications of pneumoconiosis, or where the presumption set forth at Section 718.304, relating to complicated pneumoconiosis, is applicable. See 20 C.F.R. §§718.202(a), 718.203, 718.205(c); see *Trumbo v. Reading Anthracite Co.*, 17 BLR 1-85 (1993); *Neeley v. Director, OWCP*, 11 BLR 1-85 (1988); *Boyd v. Director, OWCP*, 11 BLR 1-39 (1988). Pneumoconiosis is a "substantially contributing cause of a miner's death" if it hastens the miner's death. 20 C.F.R. §718.205(c)(5); *Brown v. Rock Creek Mining Corp.*, 996 F.2d 812, 17 BLR 2-135 (6th Cir. 1993).

Claimant first contends that the administrative law judge should have found that the evidence showing that the miner suffered from and was treated for disabling pneumoconiosis during his lifetime supported a finding of death due to pneumoconiosis. Contrary to claimant's contention, the administrative law judge considered this evidence, but properly concluded that it did not establish that the miner's pneumoconiosis played a role in his death because it did not link the miner's pneumoconiosis or respiratory impairment to his death. See *Eastover Mining Co. v. Williams*, 338 F.3d 501, 22 BLR 2-625 (6th Cir. 2003); *Lango v.*

Director's Exhibit 2. The miner died on September 19, 2002. Director's Exhibit 9. Claimant, Minnie Ratliff, filed an application for survivor's benefits with the Department of Labor on September 30, 2002. Director's Exhibit 4. Administrative Law Judge Edward Terhune Miller issued a Decision and Order denying benefits on November 30, 2004. Claimant then filed the instant appeal with the Board.

Director, OWCP, 104 F.3d 573, 21 BLR 2-12 (3d Cir. 1997).

Claimant also contends that the administrative law judge erred by not giving greater weight to the opinion of Dr. Dhyanchand, the miner's treating physician. The administrative law judge, however, found that Dr. Dhyanchand did not explain how the miner's end-stage lung disease resulted in the miner's death. The administrative law judge, therefore, properly found that Dr. Dhyanchand's opinion was not well-reasoned and not well-documented. 20 C.F.R. §718.104(d)(5); *Williams*, 338 F.3d at 517, 22 BLR at 2-625 (medical opinion insufficient to establish entitlement if doctor merely assumes that because miner had pneumoconiosis it contributed to death); *Lango v. Director, OWCP*, 104 F.3d at 577, 21 BLR at 2-20 ("The mere statement of a conclusion by a physician, without any explanation of the basis for that statement, does not take the place of the required reasoning."); *Risher v. Director, OWCP*, 940 F.2d 327, 331, 15 BLR 2-186, 2-192 (8th Cir. 1991) (fact-finder may disregard a medical opinion that does not adequately explain the basis for its conclusion). *Clark v. Karst-Robbins Coal Co.*, 12 BLR 1-149, 1-155 (1989)(*en banc*); *Fields v. Island Creek Coal Co.*, 10 BLR 1-19 (1987). As claimant does not otherwise challenge the administrative law judge's findings, we affirm his determination that the evidence of record has failed to establish that the miner's death was due to pneumoconiosis pursuant to Section 718.205(c), and thereby, his denial of benefits in the instant survivor's claim.

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

SO ORDERED.

NANCY S. DOLDER, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

BETTY JEAN HALL
Administrative Appeals Judge