

BRB No. 97-0671 BLA

ELIZABETH STILTNER)
(Widow of CLYDE STILTNER))
)
 Claimant-Petitioner)
)
 v.)
)
 BETH ENERGY MINES, INCORPORATED) DATE ISSUED:
)
 Employer-Respondent)
)
 DIRECTOR, OFFICE OF WORKERS')
 COMPENSATION PROGRAMS, UNITED)
 STATES DEPARTMENT OF LABOR)
)
 Party-in-Interest) DECISION and ORDER

Appeal of the Decision and Order Upon Remand of Ainsworth H. Brown, Administrative Law Judge, United States Department of Labor.

William Lawrence Roberts, Pikeville, Kentucky, for claimant.

Natalie D. Brown (Jackson & Kelly), Lexington, Kentucky, for employer.

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

PER CURIAM:

Claimant¹ appeals the Decision and Order Upon Remand (96-BLA-01544) of Administrative Law Judge Ainsworth H. Brown denying benefits on a 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). This case is before the Board for the second time. In its most recent Decision and Order, the Board held that claimant had not invoked Board review of the administrative law judge's denial of modification in the living miner's claim, vacated the administrative law judge's award of benefits on the survivor's claim and remanded the case to the administrative law judge for further consideration of the evidence pursuant to 20 C.F.R. §§718.202(a) and 718.205(c)(2). *Stiltner v. BethEnergy Mines, Inc.*, BRB No. 95-2036 BLA (Oct. 10, 1996)(unpub.).

¹ Claimant is Elizabeth Stiltner, the miner's widow. The miner, Clyde Stiltner, filed a claim for benefits on August 8, 1984, and died on May 27, 1993. Director's Exhibits 1, 79. Claimant filed a survivor's claim on September 7, 1993. Director's Exhibit 73.

On remand, the administrative law judge found that claimant failed to establish that the miner's death was due to, or hastened by, pneumoconiosis pursuant to Section 718.205(c). Accordingly, benefits were denied. On appeal, claimant generally contends that the administrative law judge erred in denying benefits. Employer responds urging affirmance of the Decision and Order. The Director, Office of Workers' Compensation Programs (the Director), responds declining to participate in this appeal.

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'Keefe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

In order to establish entitlement to benefits under Part 718 based on a survivor's claim filed after January 1, 1982, claimant must establish that the miner suffered from pneumoconiosis; that the pneumoconiosis arose out of coal mine employment; and that death was due to, or hastened by, pneumoconiosis. See 30 U.S.C. §901(a); 20 C.F.R. §§718.1, 718.205, 725.201; *Brown v. Rock Creek Mining Co., Inc.*, 996 F.2d 812, 17 BLR 135 (6th Cir. 1993); *Haduck v. Director, OWCP*, 14 BLR 1-29 (1990); *Smith v. Camco Mining Inc.*, 13 BLR 1-17 (1989); *Boyd v. Director, OWCP*, 11 BLR 1-39 (1988).

Claimant generally contends that the administrative law judge erred in failing to award benefits. Claimant's Brief at 2-4. The Board is not authorized to undertake a *de novo* adjudication of the claim. To do so would upset the carefully allocated division of authority between the administrative law judge as the trier-of-fact, and the Board as a reviewing tribunal. See 20 C.F.R. §802.301(a); *Sarf v. Director, OWCP*, 10 BLR 1-119 (1987). The Board's circumscribed scope of review requires that a party challenging the Decision and Order below address that Decision and Order with specificity and demonstrate that substantial evidence does not support the result reached or that the Decision and Order is contrary to law. See 20 C.F.R. §802.211(b); *Cox v. Director, OWCP*, 791 F.2d 445, 9 BLR 2-46 (6th Cir. 1986), *aff'g* 7 BLR 1-610 (1984); *Slinker v. Peabody Coal Co.*, 6 BLR 1-465 (1983); *Fish v. Director, OWCP*, 6 BLR 1-107 (1983); *Sarf, supra*. Unless the party identifies errors and briefs its allegations in terms of the relevant law and evidence, the Board has no basis upon which to review the decision. See *Sarf, supra*; *Fish, supra*.

In the instant claim, other than generally asserting that the reports of Drs. Van Buren, Ladley and Naeye constitute credible and probative evidence on the issue of the causation of the miner's death, claimant fails to make any allegations of error in the administrative law judge's finding pursuant to Section 718.205(c). As claimant's counsel has failed to adequately raise or brief any issues arising from the administrative law judge's finding pursuant to Section 718.205(c), the Board has no basis upon which to review the finding. Thus, we affirm the administrative law judge's finding that claimant failed to

establish that the miner's death was due to, or hastened by, pneumoconiosis pursuant to Section 718.205(c) and the denial of benefits.²

Accordingly, the administrative law judge's Decision and Order Upon Remand denying benefits is affirmed.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge

² We note that the administrative law judge's findings that claimant failed to establish that the miner's death was due to, or hastened by, pneumoconiosis pursuant to 20 C.F.R. §718.205(c) is supported by substantial evidence as the administrative law judge rationally relied on the substantial qualifications and expertise of Drs. Broudy, Dahhan, Kleinerman, Naeye, Caffrey, Hutchins and Fino. *Clark v. Karst-Robbins Coal Co.*, 12 BLR 1-149 (1989)(*en banc*); *Fagg v. Amax Coal Co.*, 12 BLR 1-77 (1988); *Addison v. Director, OWCP*, 11 BLR 1-68 (1988); *Hutchens v. Director, OWCP*, 8 BLR 1-16 (1985); *Piccin v. Director, OWCP*, 6 BLR 1-616 (1983); Decision and Order at 9.