

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Underhill v. Peabody Coal Co.

687 F.2d 217 (7th Cir. 1982) · No. Nos. 81-2290, 81-2391, 81-2393 · Decided August 27, 1982

SUMMARY

The Seventh Circuit affirmed the Benefits Review Board’s denial of Louis Underhill’s black lung benefits claim. The court held that Peabody Coal rebutted the regulatory presumption of total disability due to pneumoconiosis through uncontroverted medical evidence and negative chest X-rays. The court declined to decide the constitutional validity of the regulation’s aggravation concept because that issue was unnecessary to the disposition.

CASE DETAILS

COURT	United States Court of Appeals for the Seventh Circuit
WRITING FOR THE COURT	Bauer, Circuit Judge; Bauer; Nichols; Wood
JURISDICTION	Federal
DECIDED	August 27, 1982
DOCKET	Nos. 81-2290, 81-2391, 81-2393
DISPOSITION	affirmed
PROCEDURAL POSTURE	Underhill and the Director petitioned for review of the Benefits Review Board's decision reversing an administrative law judge's award of black lung benefits. Peabody Coal Company and Old Republic Insurance Company cross-petitioned for review of related issues.
STANDARD OF REVIEW	The court reviewed whether the administrative law judge's rejection of rebuttal evidence was supported by substantial evidence and was in accordance with law.
PRECEDENTIAL VALUE	published and precedential federal appellate decision
PARTIES	Louis E. Underhill, Director of Workers' Compensation Programs, Peabody Coal Co., Old Republic Insurance Co. v. Peabody Coal Co., Old Republic Insurance Co., Louis E. Underhill, Director of Workers' Compensation Programs

TOPICS

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QUESTIONS PRESENTED

1. Whether Peabody rebutted the regulatory presumption of total disability due to pneumoconiosis under 20 C.F.R. § 727.203(b)(4).
2. Whether the administrative law judge improperly applied a reasonable-degree-of-medical-certainty standard to rebuttal evidence while accepting claimant evidence under the less demanding reasoned-medical-judgment standard.
3. Whether the court should decide the constitutional validity of the regulatory aggravation concept incorporated into the definition of pneumoconiosis.

HOLDINGS

1. Peabody rebutted the presumption as a matter of law by presenting uncontroverted, credible medical evidence that Underhill did not have black lung disease and that his respiratory impairment was not caused or aggravated by coal-mine dust exposure.
2. The Department of Labor's reasoned-medical-judgment standard must be applied equally to claimant and operator evidence; the agency may not require a heightened reasonable-degree-of-medical-certainty showing from rebuttal experts when claimant evidence is evaluated under the reasoned-medical-judgment standard.
3. The court declined to decide the constitutional validity of the regulatory aggravation concept because the case was resolved independently on the basis of Dr. Nay's rebuttal opinion.

KEY QUOTATIONS

“The DOL cannot establish a standard that treats the same proof differently depending on which side offers it.” (687 F.2d at 223)

“Because Ovies served as an alternative ground which need not be considered, we think it prudent to leave this important constitutional problem for another day.” (687 F.2d at 224)

FACTUAL BACKGROUND

Louis E. Underhill worked in coal mining for 34 years, including 15 years for Peabody Coal Company, with most of his employment in strip mines. Pulmonary function studies fell below the regulatory thresholds, allowing him to invoke the interim presumption of total disability due to pneumoconiosis. The record also contained negative chest x-rays and uncontradicted medical opinions, particularly from Dr. Richard Nay, that Underhill did not have pneumoconiosis and that his chronic obstructive lung disease was not caused or aggravated by coal-mine dust exposure.

PROCEDURAL HISTORY

The Office of Workers' Compensation Programs approved Underhill's claim. An administrative law judge found total disability due to pneumoconiosis under the regulatory interim presumption and held that the presumption was not rebutted. The Benefits Review Board reversed, concluding that the presumption had been rebutted as a matter of law and invalidating the regulatory aggravation theory. The Seventh Circuit affirmed the Board's denial of benefits, resolving the case on rebuttal evidence and declining to reach the constitutional issue concerning the aggravation concept.

DISPOSITION

affirmed

CASES CITED

- Peabody Coal Co. v. Benefits Review Board, 560 F.2d 797, 802-03 (7th Cir. 1977)
- Usery v. Turner Elkhorn Mining Co., 428 U.S. 1, 27, 32-33 (1976)
- Ansel v. Weinberger, 529 F.2d 304, 310 (6th Cir. 1976)
- Kirschner v. Broadhead, 671 F.2d 1034, 1039-40 (7th Cir. 1982)
- Ovies v. Director, BLR, BRB No. 80-344 BLA (June 11, 1981), vacated and remanded, 681 F.2d 815 (4th Cir. 1982)

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