

Commonwealth Of Kentucky

Court Of Appeals

No. 1998-CA-000310-WC

MANALAPAN MINING COMPANY

APPELLANT

v. PETITION FOR REVIEW OF A DECISION
OF THE WORKERS' COMPENSATION BOARD
ACTION NO. WC-96-05703

TERRY RIGNEY; HON. LLOYD R.
EDENS, ADMINISTRATIVE LAW
JUDGE; AND THE WORKERS
COMPENSATION BOARD OF KENTUCKY

APPELLEES

OPINION AFFIRMING

AND

ORDER DENYING MOTION TO DISMISS

** ** * * *

BEFORE: GARDNER, MILLER, and SCHRODER, Judges.

MILLER, JUDGE. Manalapan Mining Company (Manalapan) has asked us to review an opinion of the Workers' Compensation Board (Board) rendered January 9, 1998. We affirm.

The appellee has filed a Motion to Dismiss Appeal which was passed to this panel by Order of the Court dated April 20, 1998. Having considered the motion to dismiss, we are of the opinion that same should be DENIED. We have reviewed the record, however, and affirm the decision of the Board.

The petition raises but a single issue which was not specifically raised before the Board. Under the authority of

Breeding v. Colonial Coal Company, Ky., ___ S.W.2d ___ (rendered July 23, 1998), we are not at liberty to address issues not first raised before the Board.

The appellant complained before the Board that the appellee was not entitled to retraining incentive benefits because he had voluntarily left his employment. Before this Court, he raises for the first time the argument that appellee is not entitled to benefits because he is not engaged in a retraining program. Under Breeding, we are unable to review this issue.

The appellee's motion to dismiss is DENIED. The decision of the Workers' Compensation Board is affirmed.

ALL CONCUR.

/s/ John D. Miller
JUDGE, COURT OF APPEALS

ENTERED: November 13, 1998

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