

Commonwealth Of Kentucky

Court Of Appeals

NO. 1998-CA-000741-WC

ISLAND CREEK COAL COMPANY

APPELLANT

v. PETITION FOR REVIEW OF A DECISION
OF THE WORKERS' COMPENSATION BOARD
ACTION NO. WC-95-033802

MARION W. MORRIS; SHEILA C. LOWTHER,
Administrative Law Judge; WORKERS'
COMPENSATION BOARD

APPELLEES

OPINION
AFFIRMING

** ** * * * **

BEFORE: BUCKINGHAM, COMBS, AND KNOPF, JUDGES.

COMBS, JUDGE: In this petition for review of a decision of the Workers' Compensation Board ("Board"), Island Creek Coal Company argues that the claimant, Marion W. Morris, is not entitled to collect retraining incentive benefits pursuant to KRS 342.732(1)(a) since he left the coal mining industry of his own accord. The appellant maintains that the Board erred by affirming the Administrative Law Judge's interpretation of the statute.

The position advanced by the appellant was recently rejected by another panel of this court. In Martin County Coal

Corp. v. Hammond, Ky. App., _____ S.W.2d _____ (98-CA-0324, Final 11/07/98), this court held that the applicable version of KRS 342.732(1)(a) does not require an assessment of a non-working claimant's reasons for having left the coal mining industry. On this basis, we summarily affirm the decision of the Workers' Compensation Board.

ALL CONCUR.

BRIEF FOR APPELLANT:

Michael O. McKown
St. Louis, MO

BRIEF FOR APPELLEE MARION W.
MORRIS:

Jerry P. Rhoads
Madisonville, KY