

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-2187

HUEY L. HAMRICK,

Petitioner,

versus

DIRECTOR, OFFICE OF WORKERS' COMPENSATION
PROGRAMS, UNITED STATES DEPARTMENT OF LABOR;
KIT T ENERGY CORPORATION,

Respondents.

On Petition of Review of an Order of the Benefits Review Board.
(00-600-BLA)

Submitted: March 14, 2002

Decided: March 21, 2002

Before NIEMEYER and KING, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Affirmed by unpublished per curiam opinion.

Huey L. Hamrick, Appellant Pro Se. Patricia May Nece, Jennifer U.
Toth, UNITED STATES DEPARTMENT OF LABOR, Washington, D.C.; Richard
Phillips Johnson, Lexington, Kentucky, for Respondents.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Huey L. Hamrick seeks review of the Benefits Review Board's decision and order dismissing his appeal from an Administrative Law Judge's decision denying his claim for black lung benefits as untimely. We affirm.

A notice of appeal must be filed within thirty days from the date upon which the decision or order of the ALJ was filed in the Office of the District Director. See 20 C.F.R. § 802.205. The ALJ's decision and order were filed in the Office of the District Director on July 31, 2001. Hamrick's notice of appeal, postmarked September 5, 2001, and received in the Office of the Clerk on September 10, 2001, is therefore untimely. See Dominion Coal Corp. v. Honaker, 33 F.3d 401, 405 (4th Cir. 1994).

Accordingly, we affirm the Board's order dismissing Hamrick's appeal as untimely. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED