

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 01-1577

J. O. LIVELY CONSTRUCTION COMPANY,

Petitioner,

and

HAZEL HARLESS, Widow of Edeker Harless,

Claimant,

versus

DIRECTOR, OFFICE OF WORKERS' COMPENSATION
PROGRAMS, UNITED STATES DEPARTMENT OF LABOR,

Respondent.

On Petition for Review of an Order of the Benefits Review Board.
(00-417-BLA, 97-1481-BLA)

Submitted: September 20, 2001 Decided: September 25, 2001

Before LUTTIG, KING, and GREGORY, Circuit Judges.

Affirmed by unpublished per curiam opinion.

William H. Howe, Mary Lou Smith, HOWE, ANDERSON & STEYER, P.C.,
Washington, D.C. for Petitioner. Howard M. Radzely, Acting Solici-
tor of Labor, Donald S. Shire, Associate Solicitor, Christian P.
Barber, Counsel for Appellate Litigation, Jennifer U. Toth, UNITED
STATES DEPARTMENT OF LABOR, Washington, D.C., for Respondent.

Unpublished opinions are not binding precedent in this circuit.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

PER CURIAM:

J. O. Lively Construction Company ("employer") seeks review of the Benefits Review Board's decision and order affirming the administrative law judge's denial of the employer's petition for modification of the Board's order finding employer to be the responsible operator for black lung benefits owed to Edeker Harless. Our review of the record discloses that the Board's decision is without reversible error. Accordingly, we affirm on the reasoning of the Board. See J. O. Lively Const. Co. v. Director, OWCP, BRB Nos. 00-417-BLA; 97-1481-BLA (B.R.B. Mar. 23, 2001). 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