

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Cordelia Johnson v. Starlight Behavioral Health Services, Inc.

No. 13-0802 (BOR Appeal No. 2048053) (Claim No. 2011006040) (W. Va. Sept. 18, 2014) · No. No. 13-0802 ·
Decided September 18, 2014

SUMMARY

The West Virginia Supreme Court of Appeals affirmed a Workers' Compensation Board of Review decision granting Cordelia Johnson a 0% permanent partial disability award. The court held that the compensable injuries were limited to a chest wall contusion and unspecified contusion, that the right shoulder condition had not been established as compensable, and that the medical evidence showed no permanent impairment from the compensable injuries.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Robin J. Davis; Justice Brent D. Benjamin; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	September 18, 2014
DOCKET	No. 13-0802
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner's appeal from the West Virginia Workers' Compensation Board of Review's order affirming an Office of Judges order that affirmed the claims administrator's denial of a permanent partial disability award.
STANDARD OF REVIEW	The Board of Review's decision will not be disturbed unless it is in clear violation of a constitutional or statutory provision, clearly results from erroneous conclusions of law, or is based on a material misstatement or mischaracterization of the evidentiary record.
PRECEDENTIAL VALUE	memorandum decision; nonprecedential
PARTIES	Cordelia Johnson v. Starlight Behavioral Health Services, Inc.

TOPICS

workers compensation

appellate procedure

standard of review

administrative law

judicial review of agency action

PRACTICE AREAS

workers compensation

administrative law

appellate procedure

QUESTIONS PRESENTED

1. Whether the Board of Review erred in affirming a 0% permanent partial disability award when the independent medical evaluator found right-shoulder impairment.
2. Whether the right shoulder could be considered in calculating permanent partial disability when its compensability had previously been denied and the denial was not appealed.

HOLDINGS

1. The right-shoulder condition could not support an award because its compensability had been denied in prior unappealed decisions, and the only compensable conditions were the chest wall contusion and unspecified contusion.
2. The Board of Review's decision affirming a 0% permanent partial disability award was affirmed because the record showed 0% impairment resulting from Johnson's compensable injuries and the decision did not violate law or rely on a material misstatement of the evidence.

KEY QUOTATIONS

“The evidentiary record demonstrates that Ms. Johnson sustained 0% whole person impairment as a result of her compensable injuries.” (2)

“Therefore, the decision of the Board of Review is affirmed.” (2)

FACTUAL BACKGROUND

Johnson was injured at work on August 14, 2010, after slipping and falling, and was diagnosed with a chest wall contusion. The claim was held compensable for a chest wall contusion and unspecified contusion, but the claims administrator denied adding her later-diagnosed right rotator cuff syndrome and denied related treatment. An independent medical evaluator assigned 12% whole person impairment for right-shoulder range-of-motion abnormalities but 0% impairment attributable to the compensable chest wall injuries.

PROCEDURAL HISTORY

The claims administrator held compensable a chest wall contusion and unspecified contusion but denied adding right rotator cuff syndrome as a compensable condition. It later granted Johnson a 0% permanent partial disability award. The Workers’ Compensation Office of Judges affirmed, the Board of Review affirmed that decision, and the Supreme Court of Appeals affirmed the Board's order.

DISPOSITION

affirmed

Retrieved from lawtools.ai · <https://lawtools.ai/cases/state/west-virginia-supreme-court-of-appeals-of-west-virginia/2014/cordelia-johnson-v-starlight-behavioral-health-services-inc-2uhrt6e0>