

SUPREME COURT OF APPEALS OF WEST VIRGINIA

URS Energy and Construction v. Jody McCartney

URS Energy · No. No. 17-0063 (BOR Appeal No. 2051369) (Claim No. 2015034124) · Decided October 10, 2017

SUMMARY

The West Virginia Supreme Court of Appeals affirmed the Workers' Compensation Board of Review's decision remanding Jody McCartney's claim for further factual development. The court held that the claim was timely filed and found no clear legal or constitutional error in the Board's remand for consideration of additional evidence concerning whether McCartney's February 2, 2015, injuries were work-related.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per curiam; Chief Justice Allen H. Loughry II; Justice Robin J. Davis; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Elizabeth D. Walker
JURISDICTION	West Virginia
DECIDED	October 10, 2017
DOCKET	No. 17-0063 (BOR Appeal No. 2051369) (Claim No. 2015034124)
DISPOSITION	affirmed
PROCEDURAL POSTURE	Employer appealed the West Virginia Workers' Compensation Board of Review's order reversing the Office of Judges and remanding the claim for further development and a ruling on compensability.
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 upon a material misstatement or mischaracterization of the evidentiary record.
PRECEDENTIAL VALUE	Memorandum decision; no precedential designation stated in the opinion text.
PARTIES	URS Energy and Construction v. Jody McCartney

TOPICS

workers compensation

administrative law

judicial review of agency action

appellate procedure

standard of review

PRACTICE AREAS

Workers' compensation

Administrative law

Appellate procedure

QUESTIONS PRESENTED

1. Whether the Workers' Compensation Board of Review properly found McCartney's claim timely filed.
2. Whether the Board of Review properly remanded the claim to the Office of Judges for consideration of additional evidence and a ruling on the merits of compensability.
3. Whether the Board of Review's decision was in clear violation of a constitutional or statutory provision, resulted from erroneous conclusions of law, or rested on a material misstatement or mischaracterization of the evidentiary record.

HOLDINGS

1. The Board of Review did not err in remanding McCartney's claim to the Office of Judges to allow additional evidence and obtain a ruling on the merits of compensability.
2. The Board of Review's decision was not clearly erroneous or legally infirm under the applicable standard of review and therefore was affirmed.

KEY QUOTATIONS

"The Board of Review did not err in remanding the claim for a full and complete development of the facts in this case." (at 3)

"For the foregoing reasons, we find that the decision of the Board of Review is not in clear violation of any constitutional or statutory provision, nor is it clearly the result of erroneous conclusions of law, nor is it based upon a material misstatement or mischaracterization of the evidentiary record." (at 3)

FACTUAL BACKGROUND

McCartney alleged that he slipped and fell on untreated ice while working for URS Energy and Construction on February 2, 2015. He sought medical treatment and was later diagnosed with right wrist and shoulder conditions, undergoing shoulder surgery on April 22, 2015. Although the claims administrator initially deferred its decision while seeking medical records, it ultimately denied the claim. McCartney later submitted evidence indicating that he had been treated in February 2015 for an injury occurring at work and that the provider had failed to document the visit as a workers' compensation claim.

PROCEDURAL HISTORY

The claims administrator denied McCartney's workers' compensation claim, finding no evidence that his injuries arose in the course of and resulted from employment. The Office of Judges affirmed, concluding both that the claim was untimely and that McCartney failed to establish a work-related injury. The Board of Review reversed

and remanded for consideration of additional evidence after finding the claim timely filed. The Supreme Court of Appeals affirmed the Board's decision.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The Office of Judges was to issue a new time-frame order permitting additional evidence, consider the September 15, 2016, report from Preston Healthcare Services, and issue a ruling on the merits of the compensability claim.

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