

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Donna Rader v. Nicholas County Community Action Association

Rader · No. No. 11-1718 · Decided September 10, 2013

SUMMARY

The West Virginia Supreme Court of Appeals reviewed a workers' compensation claim for right carpal tunnel syndrome allegedly caused by the petitioner's employment. The court held that the Workers' Compensation Board of Review materially misstated or mischaracterized the evidentiary record, reversed its decision, and remanded for further consideration consistent with the Office of Judges' order finding the claim compensable.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per curiam; Chief Justice Brent D. Benjamin; Justice Robin J. Davis; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	September 10, 2013
DOCKET	No. 11-1718
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Petitioner appealed the West Virginia Workers' Compensation Board of Review's final order reversing the Office of Judges and reinstating the claims administrator's denial of workers' compensation benefits for right carpal tunnel syndrome.
STANDARD OF REVIEW	The Court reviewed whether the Board of Review's decision was based upon a material misstatement or mischaracterization of the evidentiary record.
PRECEDENTIAL VALUE	Unpublished memorandum decision; nonprecedential
PARTIES	Donna Rader v. Nicholas County Community Action Association

TOPICS

workers compensation

appellate procedure

judicial review of agency action

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standard of review

PRACTICE AREAS

workers compensation

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QUESTIONS PRESENTED

1. Whether the Board of Review materially misstated or mischaracterized the evidentiary record in finding that Rader failed to establish that her right carpal tunnel syndrome resulted from her employment.
2. Whether West Virginia Code of State Rules § 85-20-41.5 (2006) precluded Rader from pursuing a compensability claim because her occupation was not among the listed occupations associated with an increased risk of carpal tunnel syndrome.
3. Whether the Board of Review improperly relied on Dr. Dauphin's speculative identification of other possible risk factors.

HOLDINGS

1. The Board of Review's decision was based upon a material misstatement or mischaracterization of the evidentiary record because the evidence supported the Office of Judges' finding that Rader established by a preponderance of the evidence that her right carpal tunnel syndrome resulted from her employment.
2. West Virginia Code of State Rules § 85-20-41.5 does not preclude individuals who are not engaged in one of the listed types of employment from prosecuting a claim for carpal tunnel syndrome.

KEY QUOTATIONS

"Therefore, the decision of the Board of Review is reversed and the claim is remanded for further consideration based on the Office of Judges' Order dated June 10, 2011, that held the claim compensable for right carpal tunnel syndrome." (3)

FACTUAL BACKGROUND

Donna Rader alleged that her employment with Nicholas County Community Action Association caused her right carpal tunnel syndrome. Her job involved lifting children weighing up to fifty pounds and working on a computer. Dr. Wantz and Dr. Vice concluded that her employment could have contributed to the condition, while Dr. Dauphin recommended denial based on the absence of a specific injury and the existence of five other non-compensable medical risk factors.

PROCEDURAL HISTORY

The claims administrator denied Rader's application for workers' compensation benefits. The Office of Judges reversed that decision and held the claim compensable. The Board of Review reversed the Office of Judges and reinstated the denial. The Supreme Court of Appeals of West Virginia reversed the Board of Review and remanded for further consideration based on the Office of Judges' order.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remanded for further consideration based on the Office of Judges' June 10, 2011, order holding the claim compensable for right carpal tunnel syndrome.

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