

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Ben Shinn Trucking, Inc. v. Joseph W. Howell

No. 15-0965 (BOR Appeal No. 2050397; Claim No. 2014037377) · No. No. 15-0965 (BOR Appeal No. 2050397; Claim No. 2014037377) · Decided August 26, 2016

SUMMARY

The West Virginia Supreme Court of Appeals affirmed a Workers' Compensation Board of Review decision finding that Joseph W. Howell's cervical and lumbar sprains were compensable injuries and awarding temporary total disability benefits. The court concluded that the medical evidence supported the compensability findings and disability period from May 6, 2014, through October 13, 2014.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per curiam; Justice Robin J. Davis; Justice Brent D. Benjamin; Justice Margaret L. Workman; Justice Allen H. Loughry II; Chief Justice Menis E. Ketchum
JURISDICTION	West Virginia
DECIDED	August 26, 2016
DOCKET	No. 15-0965 (BOR Appeal No. 2050397; Claim No. 2014037377)
DISPOSITION	affirmed
PROCEDURAL POSTURE	Ben Shinn Trucking, Inc. appealed the West Virginia Workers' Compensation Board of Review's final order affirming the Office of Judges' order that added cervical and lumbar sprains as compensable diagnoses and awarded temporary total disability benefits.
STANDARD OF REVIEW	The court reviewed whether the Board of Review's decision was in clear violation of a constitutional or statutory provision, clearly the result of erroneous conclusions of law, or based on a material misstatement or mischaracterization of the evidentiary record.
PRECEDENTIAL VALUE	Published memorandum decision with limited precedential value
PARTIES	Ben Shinn Trucking, Inc. v. Joseph W. Howell

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the evidence supported adding cervical sprain/strain and lumbar sprain/strain as compensable diagnoses in the workers' compensation claim.
2. Whether the evidence supported an award of temporary total disability benefits from May 6, 2014, through October 13, 2014.
3. Whether the Board of Review's decision was clearly erroneous under the applicable statutory, constitutional, and evidentiary review standards.

HOLDINGS

1. The medical evidence supported finding cervical and lumbar spine sprains compensable consequences of Howell's workplace injury.
2. The award of temporary total disability benefits from May 6, 2014, through October 13, 2014, was supported by the evidentiary record.
3. The Board of Review's decision was not in clear violation of a constitutional or statutory provision, clearly the result of an erroneous conclusion of law, or based on a material misstatement or mischaracterization of the evidentiary record.

KEY QUOTATIONS

"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

Joseph W. Howell injured his lower back and neck on May 6, 2014, when a large truck he was backing struck another vehicle. Multiple physicians diagnosed cervical and lumbar sprains or strains and related muscle spasms, and several physicians restricted him from returning to his regular truck-driving duties. Medical evidence supported temporary total disability beginning on the date of the accident, while an independent medical evaluation found that Howell reached maximum medical improvement on October 14, 2014.

PROCEDURAL HISTORY

The claims administrator held the claim compensable only for neck and lumbar muscle spasms and denied initial temporary total disability benefits. The Office of Judges reversed in part, added cervical and lumbar sprains as compensable conditions, and awarded temporary total disability benefits from May 6, 2014, through October 13, 2014. The Board of Review affirmed, and the Supreme Court of Appeals affirmed the Board's decision.

DISPOSITION

affirmed

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