

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Tim A. Moneypenny v. Summit Environmental Services, LLC

Moneypenny · No. No. 14-0879 · Decided February 4, 2016

SUMMARY

The West Virginia Supreme Court of Appeals affirmed the Board of Review’s decision awarding Tim A. Moneypenny temporary total disability benefits for the period from January 14, 2013, through February 28, 2013, following corrective hernia surgery. The court rejected Moneypenny’s argument that benefits should have begun immediately after surgery or that his termination affected his eligibility.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	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	February 4, 2016
DOCKET	No. 14-0879
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petition for review of a West Virginia Workers’ Compensation Board of Review final order affirming the Workers’ Compensation Office of Judges’ order awarding temporary total disability benefits.
STANDARD OF REVIEW	The Board of Review’s decision would be reversed only if it violated a constitutional or statutory provision, resulted from erroneous conclusions of law, or was based on a material misstatement or mischaracterization of the evidentiary record.
PRECEDENTIAL VALUE	Nonprecedential memorandum decision
PARTIES	Tim A. Moneypenny v. Summit Environmental Services, LLC

TOPICS

workers compensation

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the claimant was entitled to temporary total disability benefits from January 14, 2013, through February 28, 2013, following corrective surgery for a compensable recurrent hernia.
2. Whether the claimant's prior termination from employment barred or otherwise affected his eligibility for temporary total disability benefits.

HOLDINGS

1. The claimant was entitled to temporary total disability benefits from January 14, 2013, through February 28, 2013, because the evidence supported the physician's certification of temporary total disability during post-surgical recovery for the compensable injury.
2. The claimant's July 2012 termination did not prevent him from receiving temporary total disability benefits for the later period of post-surgical disability, and the Board of Review did not hold otherwise.

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." (4)

FACTUAL BACKGROUND

Tim A. Moneypenny injured himself while helping a coworker out of a machine at work on January 12, 2012, and the claim was held compensable for an umbilical hernia. He underwent surgery for umbilical and inguinal hernias, later experienced a recurrent periumbilical hernia, and underwent corrective surgery on December 27, 2012. His physician certified him as temporarily and totally disabled from January 14 through February 28, 2013, for post-surgical recovery. Moneypenny had been terminated in July 2012 after visiting his employer's work site, but the Office of Judges found that termination did not affect his eligibility for temporary total disability benefits.

PROCEDURAL HISTORY

The claims administrator initially denied temporary total disability benefits for January 14, 2013, through February 28, 2013, reasoning that the claimant's employment termination barred wage-replacement benefits. The Workers' Compensation Office of Judges reversed that decision and found the claimant entitled to benefits for post-surgical recovery. The Board of Review affirmed, and the Supreme Court of Appeals affirmed the Board's decision.

DISPOSITION

affirmed

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