

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Dallas J. Blevins v. CCBCC, Inc.

Blevins · No. No. 13-0589 · Decided March 17, 2015

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed a Workers' Compensation Board of Review decision awarding Dallas J. Blevins 0% permanent partial disability for a compensable right knee sprain. The court concluded that the evidence, including the treating physician's records and independent medical evaluations, did not establish ratable whole person impairment or right-leg atrophy. The decision was issued as a memorandum decision under Rule 21 of the West Virginia Rules of Appellate Procedure.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Margaret L. Workman; Justice Robin J. Davis; Justice Brent D. Benjamin; Justice Allen H. Loughry II; Justice Menis E. Ketchum
JURISDICTION	West Virginia
DECIDED	March 17, 2015
DOCKET	No. 13-0589
DISPOSITION	affirmed
PROCEDURAL POSTURE	Claimant appealed the West Virginia Workers' Compensation Board of Review's affirmance of a 0% permanent partial disability award to the Supreme Court of Appeals of West Virginia.
STANDARD OF REVIEW	The court reviewed whether the Board of Review's decision 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	Published memorandum decision
PARTIES	Dallas J. Blevins v. CCBCC, Inc.

TOPICS

workers compensation

judicial review of agency action

standard of review

appellate procedure

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 for Blevins's compensable right knee injury.
2. Whether the Board of Review's decision was based on erroneous conclusions of law or a material misstatement or mischaracterization of the evidentiary record.

HOLDINGS

1. Blevins failed to establish that his compensable December 17, 2010, injury resulted in ratable whole person impairment warranting more than a 0% permanent partial disability award.
2. The Board of Review's decision did not clearly violate a constitutional or statutory provision, result from an erroneous conclusion of law, or rest on a material misstatement or mischaracterization of the evidentiary record.

KEY QUOTATIONS

“Upon consideration of the standard of review, the briefs, and the record presented, the Court finds no substantial question of law and no prejudicial error.” (at 1)

“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 2)

FACTUAL BACKGROUND

Dallas J. Blevins slipped on ice at work on December 17, 2010, hyperextended his right knee, and struck the knee with his toolbox. His workers' compensation claim was approved for a right knee sprain, but internal derangement was not added as a compensable condition. After knee arthroscopy and follow-up treatment, medical evaluators disagreed about whether Blevins had compensable thigh and calf atrophy; two evaluators found no ratable impairment, while one found 2% whole person impairment. The Office of Judges and Board of Review credited the opinions finding no impairment and awarded 0% permanent partial disability.

PROCEDURAL HISTORY

The claims administrator approved Blevins's workers' compensation claim for a right knee sprain but denied adding internal derangement as a compensable condition. The claims administrator awarded 0% permanent partial disability. The Workers' Compensation Office of Judges affirmed that decision, and the Board of Review affirmed the Office of Judges. Blevins appealed to the Supreme Court of Appeals, which affirmed the Board's final order.

DISPOSITION

affirmed

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