

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Carolyn S. Moore v. Woodridge Assisted Living, LLC

No. 13-0952 (BOR Appeal No. 2048174) (Claim No. 2010134307) · No. No. 13-0952 · Decided November 10, 2014

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed a Board of Review decision granting Carolyn S. Moore a 1% permanent partial disability award for a compensable right thumb injury. The court rejected a higher impairment assessment based on carpal tunnel syndrome because the medical evidence showed no residual symptoms or impairment attributable to that condition. 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 Robin J. Davis; Justice Brent D. Benjamin; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	November 10, 2014
DOCKET	No. 13-0952
DISPOSITION	affirmed
PROCEDURAL POSTURE	Moore appealed the West Virginia Workers' Compensation Board of Review's order affirming a 1% permanent partial disability award for her compensable right thumb injury.
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 on a material misstatement or mischaracterization of the evidentiary record.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Carolyn S. Moore v. Woodridge Assisted Living, LLC

TOPICS

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QUESTIONS PRESENTED

1. Whether the Board of Review erred in affirming a 1% permanent partial disability award for Moore's compensable right thumb injury.
2. Whether the evidentiary record supported an additional permanent partial disability award for right carpal tunnel syndrome.

HOLDINGS

1. The evidentiary record supported a 1% permanent partial disability award for Moore's compensable right thumb injury, and the Board of Review properly affirmed that award.
2. The Board of Review's decision was not in clear violation of a constitutional or statutory provision, was not clearly the result of erroneous conclusions of law, and was not based on a material misstatement or mischaracterization of the evidentiary record.

KEY QUOTATIONS

"The evidentiary record indicates that Ms. Moore is entitled to a 1% permanent partial disability award for her compensable right thumb injury." (at 2)

"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 2-3)

FACTUAL BACKGROUND

Moore, a certified nursing assistant, sustained compensable injuries to her right hand and wrist on April 7, 2010, while putting surgical hose on a patient. She underwent right carpal tunnel release, thumb carpometacarpal arthroplasty, excision of the trapezium, and ganglion excision. Three independent medical evaluations assessed differing impairment ratings, but the Office of Judges and Board of Review determined that the medical evidence supported 1% impairment for the right thumb and did not support impairment for carpal tunnel syndrome.

PROCEDURAL HISTORY

The claims administrator denied Moore a permanent partial disability award on June 28, 2011. The Workers' Compensation Office of Judges reversed that decision and awarded 1% permanent partial disability for the right thumb. The Board of Review affirmed on September 5, 2013, and the Supreme Court of Appeals affirmed the Board's decision.

DISPOSITION

affirmed

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