

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Bonnie S. Pishner v. West Virginia Department of Health & Human Resources

No. 16-0272 (BOR Appeal No. 2050827) (Claim No. 2015000924) · No. No. 16-0272 · Decided March 3, 2017

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the Board of Review’s denial of Bonnie S. Pishner’s workers’ compensation claim for carpal tunnel syndrome. The court agreed that the evidence supported the conclusion that her hand symptoms resulted from osteoarthritis rather than an occupationally caused condition and that her clerical work did not present a high occupational risk for carpal tunnel syndrome.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Allen H. Loughry II; Justice Robin J. Davis; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Elizabeth D. Walker
JURISDICTION	West Virginia
DECIDED	March 3, 2017
DOCKET	No. 16-0272
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner appealed the West Virginia Workers’ Compensation Board of Review’s affirmance of an order rejecting her workers’ compensation claim for carpal tunnel syndrome.
STANDARD OF REVIEW	The court reviewed whether the Board of Review’s decision was in clear violation of a constitutional or statutory provision, clearly resulted from erroneous conclusions of law, or was based on a material misstatement or mischaracterization of the evidentiary record.
PRECEDENTIAL VALUE	Memorandum decision with limited precedential value
PARTIES	Bonnie S. Pishner v. West Virginia Department of Health & Human Resources

TOPICS

workers compensation

appellate procedure

administrative law

standard of review

health law

PRACTICE AREAS

workers compensation

administrative law

health law

QUESTIONS PRESENTED

1. Whether the Workers' Compensation Board of Review clearly erred in affirming the rejection of Pishner's claim for occupational carpal tunnel syndrome.
2. Whether the evidentiary record supported the conclusion that Pishner's symptoms resulted from osteoarthritis rather than a compensable occupational carpal tunnel syndrome.

HOLDINGS

1. The Board of Review's decision rejecting Pishner's claim 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

"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." (2-3)

FACTUAL BACKGROUND

Bonnie S. Pishner, a former director who had worked for the West Virginia Department of Health & Human Resources for thirty-nine years, alleged that typing and occasional long-distance driving caused occupational carpal tunnel syndrome. Although some medical providers diagnosed carpal tunnel syndrome, independent medical evaluators attributed her hand and wrist symptoms to osteoarthritis and concluded that her electrodiagnostic studies were invalid or did not establish carpal tunnel syndrome. The lower tribunals also found that her work duties did not place her in an occupational group presenting a high risk for carpal tunnel syndrome.

PROCEDURAL HISTORY

The claims administrator rejected the claim on September 15, 2014. The Workers' Compensation Office of Judges affirmed that decision on September 25, 2015, and the Board of Review affirmed the Office of Judges on February 22, 2016. The Supreme Court of Appeals of West Virginia affirmed the Board of Review.

DISPOSITION

affirmed

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