

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Michael Davis v. Pegasus International Enterprise, Inc.

Davis v. Pegasus International Enterprise · No. No. 13-0306 (BOR Appeal No. 2047469) (Claim No. 2011009683) · Decided June 27, 2014

SUMMARY

The West Virginia Supreme Court of Appeals affirmed the Workers' Compensation Board of Review's denial of Michael Davis's claim for benefits for a left shoulder labral tear allegedly sustained while making pizzas for Pegasus International Enterprise, Inc. The court held that the medical evidence was insufficient to establish that the injury occurred in the course of and resulted from his employment, and issued a memorandum decision under Rule 21.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per Curiam; Chief Justice Robin J. Davis; Justice Brent D. Benjamin; Justice Margaret L. Workman; Justice Allen H. Loughry II; Justice Menis E. Ketchum
JURISDICTION	West Virginia
DECIDED	June 27, 2014
DOCKET	No. 13-0306 (BOR Appeal No. 2047469) (Claim No. 2011009683)
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner's appeal from the West Virginia Workers' Compensation Board of Review's affirmance of the Office of Judges' order affirming the claims administrator's rejection of his workers' compensation claim.
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 upon a material misstatement or mischaracterization of the evidentiary record.
PRECEDENTIAL VALUE	memorandum decision; no substantial question of law identified
PARTIES	Michael Davis v. Pegasus International Enterprise, Inc.

TOPICS

workers compensation

appellate procedure

standard of review

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the evidence established that Davis's left-shoulder labral tear was an injury sustained in the course of and resulting from his employment.
2. Whether the Workers' Compensation Board of Review's affirmance of the denial of benefits was clearly erroneous under the applicable standard of review.

HOLDINGS

1. The evidence was insufficient to establish that Davis's left-shoulder labral tear occurred in the course of and resulted from his employment.
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

"Therefore, the decision of the Board of Review is affirmed." (at 2)

FACTUAL BACKGROUND

Davis alleged that he sustained a left-shoulder labral tear while making pizzas during his employment between January 1, 2010, and July 15, 2010. Dr. Steven O'Saile surgically repaired the tear on July 16, 2010, and Davis applied for workers' compensation benefits in August 2010. In deposition testimony, Dr. O'Saile could not determine when the tear occurred, stated that it might have occurred years earlier, and testified that Davis had not reported a specific injury or information establishing when the tear occurred. The record also showed chronic pain in both shoulders and contained no other medical opinion addressing causation.

PROCEDURAL HISTORY

The claims administrator rejected Davis's application for workers' compensation benefits on November 15, 2010, based on insufficient medical evidence and the absence of an apparent physical injury. The Workers' Compensation Office of Judges affirmed that decision on July 20, 2012, and the Board of Review affirmed on February 27, 2013. The Supreme Court of Appeals of West Virginia affirmed the Board's final order.

DISPOSITION

affirmed

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