

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Richard E. Eads v. West Virginia Office of Insurance Commissioner/Wilderness Mining Company, Inc.

Eads · No. No. 13-1102 · Decided May 7, 2015

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the denial of Richard E. Eads's application for permanent total disability benefits. The court held that Eads had not demonstrated the 50% whole person impairment required by West Virginia Code § 23-4-6(n)(1), notwithstanding his prior permanent partial disability awards exceeding 50%.

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 Menis E. Ketchum; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	May 7, 2015
DOCKET	No. 13-1102
DISPOSITION	affirmed
PROCEDURAL POSTURE	Richard E. Eads appealed the West Virginia Workers' Compensation Board of Review's affirmance of an order denying his application for permanent total disability benefits.
STANDARD OF REVIEW	The Board of Review's decision would be reversed only if it clearly violated a constitutional or statutory provision, was clearly the result of an erroneous conclusion of law, or was based on a material misstatement or mischaracterization of the evidentiary record.
PRECEDENTIAL VALUE	Nonprecedential memorandum decision
PARTIES	Richard E. Eads v. West Virginia Office of Insurance Commissioner, Wilderness Mining Company, Inc.

TOPICS

workers compensation

administrative law

standard of review

appellate procedure

PRACTICE AREAS

workers compensation

administrative law

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QUESTIONS PRESENTED

1. Whether Eads's prior permanent partial disability awards totaling more than 50% entitled him to further consideration of his application for permanent total disability benefits despite the absence of a 50% whole-person-impairment rating.
2. Whether West Virginia Code § 23-4-6(n)(1) requires proof of at least 50% whole-person impairment resulting from occupational injuries.

HOLDINGS

1. Eads was not entitled to additional consideration of his permanent total disability benefits application because he failed to establish at least 50% whole-person impairment resulting from his occupational injuries.
2. The Office of Judges and the Board of Review properly relied on Dr. Scott's evaluation as the most relevant and reliable evidence of Eads's whole-person impairment.

KEY QUOTATIONS

“Although Mr. Eads has presented a significant amount of evidence that he has been granted more than 50% in permanent partial disability awards, this evidence is not relevant in determining whether he has suffered 50% whole person impairment as a result of his occupational injuries.” (2)

“Mr. Eads has not demonstrated that he suffered 50% whole person impairment as a result of his occupational injuries as required under West Virginia Code § 23-4-6(n)(1) (2005).” (2)

FACTUAL BACKGROUND

Richard E. Eads, a mine foreman, injured both knees while pulling a water hose and later received bilateral knee replacements. He had prior permanent partial disability awards for his knees, a finger laceration, and occupational pneumoconiosis, which he characterized as totaling 57%. The Permanent Total Disability Reviewing Board calculated 37% whole-person impairment from the occupational injuries, excluding the presumptive pneumoconiosis award because there was no evidence of impairment from that condition. Eads's application for permanent total disability benefits was denied because he did not establish the required 50% whole-person impairment.

PROCEDURAL HISTORY

The claims administrator denied Eads's application on September 19, 2012, finding that he did not meet the required whole-person-impairment threshold. The Workers' Compensation Office of Judges affirmed on April 23, 2013, and the Board of Review affirmed on September 26, 2013. The Supreme Court of Appeals of West Virginia affirmed the Board's decision.

DISPOSITION

affirmed

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