

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Jeff Adkins v. Pritchard Electric Company, Inc.

No. 11-1221 (BOR Appeal No. 2045572; Claim No. 2009074286) (W. Va. May 16, 2013) · No. No. 11-1221 ·
Decided May 16, 2013

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed a Workers’ Compensation Board of Review decision awarding Jeff Adkins 2% permanent partial disability for injuries sustained while working as a journeyman electrician for Pritchard Electric Company. The court agreed that the evidentiary record supported 2% whole person impairment for the right shoulder and no impairment for the right elbow or lower extremity. The decision was issued as a memorandum decision, with Justice Menis E. Ketchum dissenting.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per curiam; Chief Justice Brent D. Benjamin; Justice Robin J. Davis; Justice Margaret L. Workman; Justice Allen H. Loughry II; Justice Menis E. Ketchum
JURISDICTION	West Virginia
DECIDED	May 16, 2013
DOCKET	No. 11-1221
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petition for appeal from the West Virginia Workers’ Compensation Board of Review’s final order affirming the Office of Judges’ order, which affirmed the claims administrator’s award of 2% permanent partial disability.
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 an erroneous conclusion of law, or was based on a material misstatement or mischaracterization of the evidentiary record.
PRECEDENTIAL VALUE	Memorandum decision with limited precedential value
PARTIES	Jeff Adkins v. Pritchard Electric Company, Inc.

TOPICS

workers compensation

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appellate procedure

standard of review

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the Board of Review erred in affirming a 2% permanent partial disability award for Adkins's compensable workplace injuries.
2. Whether the evidentiary record supported rejecting the higher impairment ratings assigned by Dr. Poletajev.

HOLDINGS

1. The Board of Review properly affirmed the award of 2% permanent partial disability because the preponderance of the evidence supported 2% impairment attributable to the compensable right shoulder injury and no impairment attributable to the right elbow, knee, ankle, or other right lower-extremity injuries.

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 3)

FACTUAL BACKGROUND

On December 17, 2008, Jeff Adkins, a journeyman electrician, stepped from an uneven elevator while carrying a six-foot piece of pipe, twisted and inverted his right ankle, and fell. His workers' compensation claim was found compensable for right ankle and shoulder sprains, right shoulder, elbow, and knee contusions. Medical evaluators reached differing impairment opinions, ranging from no impairment to substantially higher impairment ratings, but the Office of Judges credited the evaluations supporting a total of 2% whole-person impairment.

PROCEDURAL HISTORY

The claims administrator awarded Adkins 2% permanent partial disability for his compensable workplace injuries. Adkins appealed, but the Office of Judges affirmed the award on January 21, 2011. The Board of Review affirmed on July 25, 2011, and the Supreme Court of Appeals of West Virginia affirmed the Board's decision.

DISPOSITION

affirmed

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