

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Ellen Shapiro v. Kanawha County Board of Education

Shapiro · No. No. 14-0073 · Decided January 20, 2015

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the denial of workers’ compensation benefits to Ellen Shapiro for a left femur fracture sustained while she was at work. The court concluded that the evidence supported findings that the fracture resulted from pre-existing osteoporosis and medication-related bone brittleness rather than from her employment. Justice Menis E. Ketchum dissented.

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 Allen H. Loughry II; Justice Menis E. Ketchum                                                                                                                                                                                                            |
| JURISDICTION          | West Virginia                                                                                                                                                                                                                                                                                                                                          |
| DECIDED               | January 20, 2015                                                                                                                                                                                                                                                                                                                                       |
| DOCKET                | No. 14-0073                                                                                                                                                                                                                                                                                                                                            |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                                                                                                               |
| PROCEDURAL POSTURE    | Petitioner appealed the West Virginia Workers' Compensation Board of Review's affirmance of an order denying her application for workers' compensation benefits.                                                                                                                                                                                       |
| STANDARD OF REVIEW    | The court reviewed whether the Board of Review's decision was in clear violation of a constitutional or statutory provision, clearly the result of erroneous conclusions of law, or based on a material misstatement or mischaracterization of the evidentiary record. The court also reviewed for prejudicial error and substantial questions of law. |
| PRECEDENTIAL VALUE    | memorandum decision; limited precedential value                                                                                                                                                                                                                                                                                                        |
| PARTIES               | Ellen Shapiro v. Kanawha County Board of Education                                                                                                                                                                                                                                                                                                     |

TOPICS

workers compensation

administrative law

appellate procedure

standard of review

employment law

## PRACTICE AREAS

workers compensation

employment law

administrative law

## QUESTIONS PRESENTED

1. Whether Shapiro established that her left femur fracture occurred in the course of and resulted from her employment so as to be compensable under workers' compensation law.
2. Whether the Board of Review's decision denying benefits was clearly erroneous, legally erroneous, constitutionally or statutorily invalid, or based on a material misstatement or mischaracterization of the evidentiary record.

## HOLDINGS

1. Shapiro did not demonstrate that her left femur fracture occurred in the course of and resulted from her employment. Although the fracture occurred while she was at work, the evidence showed that it was caused by preexisting bone disease and medication-related brittleness rather than by her 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

*“Ms. Shapiro has not demonstrated that she suffered a left femur fracture in the course of and resulting from her employment.” (at 2)*

*“Although Ms. Shapiro was at work when she suffered a femur fracture, the evidence in the record shows that the injury was not the result of her employment.” (at 2)*

*“Therefore, the decision of the Board of Review is affirmed.” (at 2)*

## FACTUAL BACKGROUND

Ellen Shapiro, an itinerant teacher for the Kanawha County Board of Education, fractured her left femur while walking down a hallway at work on March 30, 2012. She had significant preexisting bone problems, including osteoporosis, below-normal bone density, prior femur fractures, and treatment with medications that could cause bone brittleness. Surveillance video showed that she collapsed rather than tripped over a surface hazard, and medical evidence indicated that the fracture was spontaneous or idiopathic and occurred before causing her fall.

## PROCEDURAL HISTORY

The claims administrator rejected Shapiro's application for workers' compensation benefits on April 12, 2012. The Workers' Compensation Office of Judges affirmed that decision on June 6, 2013, and the Board of Review affirmed on December 27, 2013. The Supreme Court of Appeals of West Virginia affirmed the Board of Review.

## DISPOSITION

affirmed

## INSTRUCTIONS FOR AN AI ASSISTANT

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