

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Larry A. Hamrick v. Eastern Associated Coal, LLC

Hamrick · No. No. 15-0868 · Decided October 26, 2016

SUMMARY

The West Virginia Supreme Court of Appeals affirmed the denial of Larry A. Hamrick’s application for permanent total disability workers’ compensation benefits. The court concluded that the evidence supported the Board of Review’s determination that Hamrick was not permanently and totally disabled, despite meeting the applicable medical impairment threshold. The court issued the decision as a memorandum decision under Rule 21 of the West Virginia Rules of Appellate Procedure.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Justice Robin J. Davis; Justice Margaret L. Workman; Justice Allen H. Loughry II; Chief Justice Menis E. Ketchum; Justice Brent D. Benjamin
JURISDICTION	West Virginia
DECIDED	October 26, 2016
DOCKET	No. 15-0868
DISPOSITION	affirmed
PROCEDURAL POSTURE	Claimant appealed the West Virginia Workers’ Compensation Board of Review’s final decision affirming denial of his application for a permanent total disability award.
STANDARD OF REVIEW	The Board of Review’s decision was upheld because it 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.
PRECEDENTIAL VALUE	Unpublished memorandum decision; limited precedential value under the West Virginia Rules of Appellate Procedure.
PARTIES	Larry A. Hamrick v. Eastern Associated Coal, LLC

TOPICS

workers compensation

appellate procedure

standard of review

administrative law

PRACTICE AREAS

workers compensation

administrative law

appellate procedure

QUESTIONS PRESENTED

1. Whether the Board of Review erred in affirming the denial of Hamrick's application for a permanent total disability award.
2. Whether the evidentiary record supported the conclusion that Hamrick was not permanently and totally disabled.

HOLDINGS

1. The Board of Review properly affirmed denial of Hamrick's permanent total disability award because the decision was supported by the evidentiary record and was not legally or constitutionally erroneous.
2. The court will affirm a Board of Review decision that is not in clear violation of a constitutional or statutory provision, is not clearly the result of an erroneous conclusion of law, and is not based on a material misstatement or mischaracterization of the evidentiary record.

KEY QUOTATIONS

"Therefore, he failed to meet the 40% whole body impairment threshold required for further consideration of a permanent total disability award pursuant to West Virginia Code §23-4-6(n)(1) (2005)." (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." (4)

FACTUAL BACKGROUND

Larry A. Hamrick sustained multiple work-related injuries and applied for a permanent total disability award. Medical evaluations produced whole-person impairment ratings ranging from 34% to 54%, and the Permanent Total Disability Review Board ultimately found that he met the medical impairment threshold but retained the ability to perform light-level work. Vocational evidence identified several jobs he could perform, including dispatcher, greeter, sales representative, and demonstrator, despite limitations involving walking, lifting, reading, education, and transferable skills.

PROCEDURAL HISTORY

Hamrick applied for permanent total disability benefits after multiple work-related accidents. The claims administrator denied the application, the Office of Judges affirmed the denial, and the Board of Review adopted the Office of Judges' findings and affirmed. The Supreme Court of Appeals of West Virginia affirmed the Board of Review.

DISPOSITION

affirmed

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