

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Tracy L. Edgar v. Kohl's Department Stores, Inc.

Edgar v. Kohl's Department Stores · No. No. 12-0976; BOR Appeal No. 2046904; Claim No. 2009078805 ·
Decided March 20, 2014

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the Board of Review’s decision denying Tracy L. Edgar’s request to add L4-5 and L3-4 herniated discs as compensable conditions in her workers’ compensation claim. The court concluded that the medical evidence was insufficient to establish that the alleged herniated discs were causally related to her workplace injury, particularly in light of pre-existing degenerative back conditions. Justice Margaret L. Workman dissented.

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 Menis E. Ketchum; Justice Allen H. Loughry II; Justice Margaret L. Workman
JURISDICTION	West Virginia
DECIDED	March 20, 2014
DOCKET	No. 12-0976; BOR Appeal No. 2046904; Claim No. 2009078805
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petition for appellate review of the West Virginia Workers' Compensation Board of Review's order affirming the denial of a request to add L4-5 and L3-4 herniated discs as compensable conditions.
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 erroneous conclusions of law, or was based on a material misstatement or mischaracterization of the evidentiary record.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Tracy L. Edgar v. Kohl's Department Stores, Inc.

TOPICS

workers compensation

administrative law

appellate procedure

standard of review

PRACTICE AREAS

workers compensation

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QUESTIONS PRESENTED

1. Whether the evidence established that Edgar's alleged L4-5 and L3-4 herniated discs were causally related to her compensable work injury and should be added as compensable conditions.
2. Whether the Workers' Compensation Board of Review's decision affirming the denial was clearly erroneous under the applicable appellate standard of review.

HOLDINGS

1. Edgar did not present sufficient evidence to establish that the requested L4-5 and L3-4 herniated discs were caused by the compensable injury or arose in the course of and resulted from her employment.
2. The Board of Review's decision was not in clear violation of a constitutional or statutory provision, did not clearly result from erroneous conclusions of law, and was not based on a material misstatement or mischaracterization of the evidentiary record.

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)

“The evidence in the record is insufficient to find that Ms. Edgar herniated her L4-5 and L3-4 discs in the course of and resulting from her employment, particularly in light of her history of low back problems, including degenerative changes at L3-4 and spinal canal stenosis.” (at 2)

FACTUAL BACKGROUND

Edgar, a security officer for Kohl's, injured her left ankle, foot, back, and head while attempting to apprehend a shoplifter on October 9, 2008. Her claim was accepted for several conditions, but a later MRI showed degenerative changes, a disc bulge, and spinal canal stenosis at or near L3-4. Physicians disagreed about whether her L4-5 and L3-4 conditions were herniated discs caused by the work injury or reflected preexisting degenerative disease. The claims administrator denied adding those herniated discs as compensable conditions, and the administrative tribunals upheld that decision.

PROCEDURAL HISTORY

The claims administrator denied Edgar's request to add herniation of the L4-5 and L3-4 discs to her workers' compensation claim. The Workers' Compensation Office of Judges affirmed the denial on January 25, 2012, and the Board of Review affirmed on August 2, 2012. The Supreme Court of Appeals of West Virginia affirmed the Board's decision in a memorandum decision.

DISPOSITION

affirmed

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