

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Sharon Neeley, Widow of Noble Ray Neeley v. Alcan Rolled Products–Ravenswood, LLC

Neeley v. Alcan Rolled Products–Ravenswood · No. No. 13-0852 · Decided December 2, 2014

SUMMARY

The West Virginia Supreme Court of Appeals affirmed the denial of dependent’s workers’ compensation benefits to Sharon Neeley following the death of her husband, Noble Ray Neeley. The court held that she failed to prove occupational pneumoconiosis was a material contributing factor in his death, crediting the Occupational Pneumoconiosis Board and other medical opinions over the contrary opinion of Dr. Rasmussen. The decision was issued 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	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	December 2, 2014
DOCKET	No. 13-0852
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner's appeal from the West Virginia Workers’ Compensation Board of Review's order affirming denial of dependent's workers' compensation benefits.
STANDARD OF REVIEW	The Court reviewed whether the Board of Review's decision violated a constitutional or statutory provision, resulted from erroneous conclusions of law, or was based on a material misstatement or mischaracterization of the evidentiary record.
PRECEDENTIAL VALUE	Nonprecedential memorandum decision
PARTIES	Sharon Neeley, Widow of Noble Ray Neeley v. Alcan Rolled Products–Ravenswood, LLC

TOPICS

workers compensation

judicial review of agency action

administrative law

appellate procedure

standard of review

PRACTICE AREAS

workers compensation

administrative law

QUESTIONS PRESENTED

1. Whether the Board of Review erred in affirming the denial of dependent's benefits because occupational pneumoconiosis was not proven to be a material contributing factor in Noble Ray Neeley's death.
2. Whether the Office of Judges and Board of Review improperly relied on the opinions of the Occupational Pneumoconiosis Board and other physicians over the contrary opinion of Dr. Rasmussen.

HOLDINGS

1. The claimant failed to prove that occupational pneumoconiosis was a material contributing factor in her husband's death; therefore, the denial of dependent's benefits was properly affirmed.
2. The Board of Review's decision did not clearly violate a constitutional or statutory provision, result from an erroneous conclusion of law, or rest on a material misstatement or mischaracterization of the evidentiary record.

KEY QUOTATIONS

"Mrs. Neeley has not proven that occupational pneumoconiosis was a material contributing factor in her husband's death."

"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."

FACTUAL BACKGROUND

Noble Ray Neeley worked for Alcan Rolled Products for thirty-nine years, developed occupational pneumoconiosis, and received a 20% permanent partial disability award. He died in 2009 at age sixty-one, with arteriosclerotic vascular disease listed as the immediate cause of death. Medical opinions conflicted regarding whether occupational pneumoconiosis was a material contributing factor in his death, but the Occupational Pneumoconiosis Board and several physicians concluded it was not, while Dr. Donald Rasmussen reached the contrary conclusion.

PROCEDURAL HISTORY

The claims administrator denied Sharon Neeley's request for dependent's benefits. The Workers' Compensation Office of Judges affirmed that decision on January 25, 2013, and the Board of Review affirmed on August 5, 2013. The Supreme Court of Appeals affirmed the Board of Review's final order.

DISPOSITION

affirmed

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