

SUPREME COURT OF APPEALS OF WEST VIRGINIA

James D. Kidd v. West Virginia Office of Insurance Commissioner

Kidd · No. No. 18-1010 · Decided November 1, 2019

SUMMARY

The West Virginia Supreme Court of Appeals affirmed the denial of James D. Kidd's request for an additional permanent partial disability award arising from compensable lumbar and thoracic spine injuries. The court concluded that the record supported the finding that Kidd had already been fully compensated and that he failed to establish increased impairment attributable to the compensable injury.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Elizabeth D. Walker; Justice Margaret L. Workman; Justice Tim Armstead; Justice Evan H. Jenkins; Justice John A. Hutchison
JURISDICTION	West Virginia
DECIDED	November 1, 2019
DOCKET	No. 18-1010
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner's appeal from the West Virginia Workers' Compensation Board of Review's affirmance of the denial of an additional permanent partial disability award.
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	Published memorandum decision; the opinion states that it is a memorandum decision under West Virginia Rule of Appellate Procedure 21.
PARTIES	James D. Kidd v. West Virginia Office of Insurance Commissioner, Eastern Associated Coal, LLC

TOPICS

insurance

appellate procedure

standard of review

judicial review of agency action

administrative law

PRACTICE AREAS

workers' compensation

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QUESTIONS PRESENTED

1. Whether Kidd was entitled to an additional permanent partial disability award for his compensable lumbar and thoracic spine injuries.
2. Whether the Board of Review's denial of an additional award violated a constitutional or statutory provision, resulted from an erroneous conclusion of law, or was based on a material misstatement or mischaracterization of the evidentiary record.

HOLDINGS

1. Kidd was not entitled to an additional permanent partial disability award because the record supported the conclusion that he had already been fully compensated for his compensable lumbar and thoracic injuries.
2. The Board of Review's decision was not in clear violation of a constitutional or statutory provision, was not clearly the result of an erroneous conclusion 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)

“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 4)

FACTUAL BACKGROUND

James D. Kidd sustained a July 11, 2007, work-related hyperextension injury to his lower back while employed as a fire boss at a coal mine. The claim was accepted for lumbar strain, and the thoracic spine was later added as a compensable component. Kidd previously received permanent partial disability awards for his lumbar and thoracic conditions, but later sought an additional award based on medical evaluations reporting increased impairment. The claims administrator, Office of Judges, and Board of Review concluded that the medical evidence did not establish additional compensable impairment because Kidd had already been fully compensated.

PROCEDURAL HISTORY

The claims administrator denied an additional permanent partial disability award on May 1, 2017. The Workers' Compensation Office of Judges affirmed that decision on May 15, 2018, and the Board of Review affirmed on October 19, 2018. The Supreme Court of Appeals of West Virginia affirmed the Board of Review.

DISPOSITION

affirmed

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