

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Williamson Memorial Hospital v. Traci Spence

Williamson Memorial Hospital · No. No. 12-0873 (BOR Appeal No. 2046727) (Claim No. 2010138091) ·

Decided March 10, 2014

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed a Workers' Compensation Board of Review decision holding that Traci Spence's right-sided L4-5 herniated nucleus pulposus was compensable as an occupational injury. The court also affirmed her entitlement to temporary total disability benefits through April 8, 2011, and thereafter as supported by medical evidence.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice Robin J. Davis; Justice Brent D. Benjamin; Justice Margaret L. Workman; Justice Menis E. Ketchum; Justice Allen H. Loughry II
JURISDICTION	West Virginia
DECIDED	March 10, 2014
DOCKET	No. 12-0873 (BOR Appeal No. 2046727) (Claim No. 2010138091)
DISPOSITION	affirmed
PROCEDURAL POSTURE	The employer appealed the West Virginia Workers' Compensation Board of Review's order affirming an Office of Judges decision that held a right-sided L4-5 herniated nucleus pulposus compensable and awarded temporary total disability benefits.
STANDARD OF REVIEW	The Court reviewed the Board of Review's decision for clear violation of a constitutional or statutory provision, erroneous conclusions of law, or a material misstatement or mischaracterization of the evidentiary record.
PRECEDENTIAL VALUE	Published memorandum decision; precedential effect not otherwise specified in the source text.
PARTIES	Williamson Memorial Hospital of West Virginia v. Traci Spence

TOPICS

workers compensation

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appellate procedure

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the evidence supported finding a right-sided L4-5 herniated nucleus pulposus compensable as an occupational injury.
2. Whether the claimant was entitled to temporary total disability benefits through April 8, 2011, and thereafter as supported by medical evidence.
3. Whether the Board of Review's decision was clearly erroneous under the applicable standard of appellate review.

HOLDINGS

1. A preponderance of the evidence established that the claimant sustained a right-sided L4-5 herniated nucleus pulposus in the course of her employment, making the condition compensable.
2. Because the right-sided L4-5 herniation was compensable, the claimant was entitled to temporary total disability benefits through April 8, 2011, and thereafter as supported by medical evidence.
3. The Board of Review's decision should be affirmed where it does not clearly violate a constitutional or statutory provision, rest on an erroneous conclusion of law, or materially misstate or mischaracterize the evidentiary record.

KEY QUOTATIONS

"Therefore, a preponderance of the evidence shows that the Board of Review was correct in its determination that Ms. Spence sustained a herniated nucleus pulposus on the right side at L4-5 in the course of her employment." (at 2)

"Therefore, the decision of the Board of Review is affirmed." (at 2)

FACTUAL BACKGROUND

Traci Spence had previously undergone surgery for a left-sided L5-S1 disc herniation and returned to work without restrictions. On June 9, 2010, she injured her lower back at work and thereafter developed severe pain radiating down her right side; pre-injury MRIs showed no right-sided L4-5 herniation, while later imaging showed a right-sided L4-5 disc protrusion or herniation. Her treating physician attributed the herniation to the work injury, while another physician diagnosed only a lumbar strain.

PROCEDURAL HISTORY

The claims administrator initially closed the claim for temporary total disability benefits and later held the claim compensable for lumbar strain. The Office of Judges reversed the closure decision, held the claim compensable for a right-sided L4-5 herniated nucleus pulposus, and awarded temporary total disability benefits through April

8, 2011, and thereafter as supported by medical evidence. The Board of Review adopted the Office of Judges' findings and conclusions, and the Supreme Court of Appeals affirmed.

DISPOSITION

affirmed

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