

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Alvin Flint v. Arch Coal, Inc.

Flint · No. No. 21-0298 (BOR Appeal No. 2055840) (Claim No. 2018003402) · Decided September 19, 2022

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed a 1% permanent partial disability award for Alvin Flint arising from a compensable left shoulder strain. The court agreed with the lower tribunals that the most reliable medical evidence supported no greater award and that the claimant had not shown entitlement to additional permanent partial disability benefits.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Chief Justice John A. Hutchison; Justice Elizabeth D. Walker; Justice Tim Armstead; Justice William R. Wooton; Justice C. Haley Bunn
JURISDICTION	West Virginia
DECIDED	September 19, 2022
DOCKET	No. 21-0298 (BOR Appeal No. 2055840) (Claim No. 2018003402)
DISPOSITION	affirmed
PROCEDURAL POSTURE	Claimant appealed the West Virginia Workers' Compensation Board of Review's affirmance of a 1% permanent partial disability award for a compensable left shoulder strain.
STANDARD OF REVIEW	Under W. Va. Code § 23-5-15, the court gives deference to the Board of Review's findings, reasoning, and conclusions. When the Board affirms prior rulings by the commission and Office of Judges on the same issue, reversal or modification is permitted only for a clear violation of constitutional or statutory provisions, erroneous conclusions of law, or material misstatement or mischaracterization of the evidentiary record; the court may not conduct a de novo reweighing of the evidence. Questions of law are reviewed de novo.
PRECEDENTIAL VALUE	Published memorandum decision
PARTIES	Alvin Flint v. Arch Coal, Inc.

TOPICS

workers compensation

appellate procedure

standard of review

administrative law

PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether Flint established entitlement to a permanent partial disability award greater than 1% for his compensable left shoulder strain.
2. Whether the Board of Review's affirmance of the 1% award was clearly erroneous, legally erroneous, or based on a material misstatement or mischaracterization of the evidentiary record.

HOLDINGS

1. The Board of Review properly affirmed the 1% permanent partial disability award because Flint did not submit sufficient persuasive evidence establishing entitlement to a greater award.
2. Questions of law arising in the context of Board of Review decisions are reviewed de novo, while factual findings and evidentiary determinations receive the deference prescribed by W. Va. Code § 23-5-15.

KEY QUOTATIONS

"The court may not conduct a de novo reweighing of the evidentiary record" (at 1)

"Mr. Flint failed to submit sufficient evidence showing that he is entitled to a greater permanent partial disability award than the 1% award already granted." (at 4)

FACTUAL BACKGROUND

Flint injured his left shoulder while pulling a metal strap from a trash bin at work on August 9, 2017. The claim was held compensable for a left shoulder strain, while lower-back and thoracic injuries were not accepted as compensable. Multiple independent medical evaluations assessed different impairment levels, with Dr. Grady attributing 1% impairment to the compensable injury after apportioning 2% for preexisting degeneration, and Dr. Mukkamala attributing 0% impairment to the compensable injury. The Office of Judges found the reports supporting a higher award unreliable and affirmed the 1% award.

PROCEDURAL HISTORY

The claims administrator granted Flint a 1% permanent partial disability award on April 23, 2019. The Workers' Compensation Office of Judges affirmed that decision on October 15, 2020, and the Board of Review affirmed on March 18, 2021. The Supreme Court of Appeals reviewed the Board's decision and affirmed.

DISPOSITION

affirmed

CASES CITED

- Hammons v. W. Va. Off. of Ins. Comm'r, 235 W. Va. 577, 582-83, 775 S.E.2d 458, 463-64 (2015)
- Justice v. West Virginia Office Insurance Commission, 230 W. Va. 80, 83, 736 S.E.2d 80, 83 (2012)
- Davies v. W. Va. Off. of Ins. Comm'r, 227 W. Va. 330, 334, 708 S.E.2d 524, 528 (2011)

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