

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Judy L. Treadway v. Fayette County Commission

Treadway · No. No. 12-1402 (BOR Appeal No. 2047199) (Claim No. 2010118982) · Decided June 11, 2014

SUMMARY

The Supreme Court of Appeals of West Virginia affirmed the denial of Judy L. Treadway’s workers’ compensation claim. The court held that she failed to present medical evidence establishing that her chronic sinusitis or other respiratory conditions were occupationally acquired, rather than merely exacerbated by conditions in her workplace.

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	June 11, 2014
DOCKET	No. 12-1402 (BOR Appeal No. 2047199) (Claim No. 2010118982)
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner appealed the West Virginia Workers’ Compensation Board of Review’s final order affirming the Office of Judges’ order, which had affirmed the claims administrator’s denial of her workers’ compensation claim.
STANDARD OF REVIEW	The Board of Review’s decision would be reversed only if it clearly violated a constitutional or statutory provision, resulted from clearly erroneous conclusions of law, or was based on a material misstatement or mischaracterization of the evidentiary record.
PRECEDENTIAL VALUE	Nonprecedential memorandum decision
PARTIES	Judy L. Treadway v. Fayette County Commission

TOPICS

workers compensation

agency adjudication

judicial review of agency action

standard of review

appellate procedure

PRACTICE AREAS

Workers compensation

Administrative law

Appellate procedure

QUESTIONS PRESENTED

1. Whether substantial medical evidence established that Treadway's chronic sinusitis or other condition was an occupationally acquired disease or injury compensable under workers' compensation.
2. Whether the Workers' Compensation Board of Review's decision affirming denial of the claim was clearly erroneous, legally incorrect, or based on a material misstatement or mischaracterization of the evidence.

HOLDINGS

1. Treadway failed to prove that she suffered an occupationally acquired disease or injury because the record contained no medical opinion establishing that her chronic sinusitis or another diagnosis was caused by her employment.
2. The Board of Review's decision did not clearly violate a constitutional or statutory provision, result from erroneous conclusions of law, or rest on a material misstatement or mischaracterization of the evidentiary record.

KEY QUOTATIONS

"There is no medical evidence to support that Ms. Treadway has an occupationally acquired disease." (2)

"Ms. Treadway has failed to prove she has suffered an occupational injury or disease, and therefore, her claim is not compensable." (2)

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

FACTUAL BACKGROUND

Judy L. Treadway worked as a tax deputy for Fayette County Commission from October 2003 through July 2009 in a partially underground concrete building that was damp, musty, and had flooded multiple times. She experienced respiratory, sinus, and ear infections over several years and alleged that workplace mold and building conditions caused or contributed to her chronic sinusitis and bronchitis. Medical evidence identified several exacerbating factors, including building conditions and cigarette smoking, but no physician opined that she had an occupationally acquired disease; testing also found relatively low abnormal mold exposure and normal lungs.

PROCEDURAL HISTORY

Treadway filed a workers' compensation application on November 28, 2009, alleging respiratory and related conditions caused by the conditions of her workplace. The claims administrator denied the claim on January 13, 2010. The Workers' Compensation Office of Judges affirmed the denial on May 4, 2012, and the Board of Review affirmed that decision on October 24, 2012. The Supreme Court of Appeals of West Virginia affirmed the Board's final order by memorandum decision.

DISPOSITION

affirmed

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