

Commonwealth Of Kentucky

Court Of Appeals

NO. 1999-CA-000070-WC

ELNORA JAGGERS

APPELLANT

v. PETITION FOR REVIEW OF A DECISION
OF THE WORKERS' COMPENSATION BOARD
ACTION NO. WC-97-89597

JEFFERSON COUNTY FISCAL COURT;
HONORABLE IRENE STEEN, ADMINISTRATIVE
LAW JUDGE; AND WORKERS' COMPENSATION BOARD

APPELLEES

OPINION
AFFIRMING

** ** * * *

BEFORE: DYCHE, EMBERTON, AND GARDNER, JUDGES.

DYCHE, JUDGE: Elnora Jaggars appeals from an opinion of the Workers' Compensation Board ("Board") affirming the dismissal of her claim for workers' compensation benefits by an Administrative Law Judge ("ALJ"). We affirm.

Jaggars's claim was based upon a stroke which she suffered, and which she claims was caused, at least in part, by the stress she was subjected to at work, and sometimes when not at work; the stress was harassing behavior by another employee, including as many as 150 "hang up" phone calls a day. The

employer was apparently unable or unwilling to alleviate the problem, and it went on for over nine months.

The ALJ found that Jagers's condition was not an "injury" as defined under the 1994 revision of KRS 342.0011(1), which specifically excludes stress-related changes in the human organism, unless directly the product of a physical injury. Jagers claims that this exclusion is an unconstitutional violation of §59(24) of the Kentucky Constitution, which forbids special or local legislation regulating labor, trade, mining or manufacturing. She also argues that the statute impermissibly creates two classes of workers for compensation of injury purposes; although her petition does not cite §3 of the constitution, such a challenge would arise under that equal protection provision.

We must extend every presumption of constitutionality to an enactment of the General Assembly. Lovelace v. Commonwealth, 285 Ky. 326, 147 S.W.2d 1029 (1941).

The constitutionality of a statute [dealing with economic matters] will be upheld if its classification is not arbitrary, or if it is founded upon any substantial distinction suggesting the necessity or propriety of such legislation.

Kentucky Harlan Coal Co. v. Holmes, Ky., 872 S.W.2d 446, 455 (1994). The 1994 General Assembly recognized that the Workers' Compensation system, in its opinion, was in "crisis," and it made drastic revisions in an attempt to cut the cost of the system. Procedural and substantive changes aimed at streamlining the system and cutting its costs to businesses were enacted. The new definition of "injury," of which Jagers complains, was a part of

this revision. Stress, like pain, is a very subjective concept, and extremely difficult to quantify. We find the requirement of a physical injury as a cause of a stress-related injury to be a legitimate and rational basis to help control costs in the workers' compensation field.

Jaggers's claim must fall. She produces no evidence which compels a finding that her stroke was caused by a physical injury. The opinion of the Workers' Compensation Board is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Wayne C. Daub
Louisville, Kentucky

BRIEF FOR APPELLEE

JEFFERSON COUNTY FISCAL COURT:

James T. Mitchell
Louisville, Kentucky