

Commonwealth Of Kentucky

Court Of Appeals

NO. 2001-CA-001187-WC

GARY YATES

APPELLANT

v. PETITION FOR REVIEW OF A DECISION
OF THE WORKERS' COMPENSATION BOARD
ACTION NO. WC-97-60633

GENERAL CABLE; RONALD MAY,
Administrative Law Judge; and
WORKERS' COMPENSATION BOARD

APPELLEES

OPINION
AFFIRMING
** ** * * * * *

BEFORE: BUCKINGHAM, COMBS, and DYCHE, Judges.

COMBS, JUDGE: Gary Yates appeals an opinion of the Workers' Compensation Board (Board) rendered May 2, 2001. Kentucky Revised Statutes (KRS) 342.290. After our review, we affirm.

Yates began working at General Cable in 1994. His duties included loading reels of cable onto a forklift for transport. On October 24, 1997, he reported an injury to his back. He was able to complete the workday, but he sought medical treatment for the injury the following day. Yates's family physician ordered and evaluated an MRI and then referred Yates to Dr. D'Angelo, who ordered a course of physical therapy. The physical therapy proved unhelpful, and Yates eventually underwent a discectomy and then a revision discectomy and fusion. Yates

appeared to recover normally and was referred to Dr. Cartia for pain management treatment.

Yates filed his claim for workers' compensation benefits on January 7, 2000. Following a hearing, the Administrative Law Judge (ALJ) awarded him benefits based upon a 15% permanent, partial disability rating. The ALJ rejected his argument that he suffered from disabling back pain.

Before arriving at his findings, the ALJ reviewed the neurosurgeons' assessments of Yates's physical condition and considered their inability to account for his continued back pain. Dr. Russell L. Travis was convinced that Yates was magnifying his symptoms to a great degree and assigned a 10% impairment rating.

The ALJ also surveyed Dr. Cartia's medical records. These records indicated that Yates was initially prescribed a relatively low dose of Oxycontin for pain along with an antidepressant. Over the following months, however, the prescription elevated the dosage of Oxycontin steadily. As the ALJ noted, Yates has developed a severe chemical dependency.

The only issue raised on appeal concerns Yates's allegation of bias by the ALJ. He contends that the ALJ's findings demonstrate an extreme prejudice against him and contempt for Dr. Cartia. He believes that the ALJ's opinion and award are tainted by partiality. We disagree.

KRS 342.285 authorizes the Board to reverse an award that is "characterized by abuse of discretion." Rather than discovering a biased animus, we believe that the ALJ's opinion in this case indicates a genuine concern for the claimant's well-

being and rehabilitation in anticipation of a return to work. It does not reveal a deep-seated contempt for him or for anyone treating him. A presumption of honesty and integrity attaches to Administrative Law Judges and their decisions. Having reviewed the evidence and the ALJ's carefully considered opinion, we are not persuaded that the ALJ failed to take an objective, unbiased view of the case as presented. We have not been able to ascertain any abuse of discretion.

Based upon the foregoing, the opinion of the Workers' Compensation Board is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

Jackson Watts
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BRIEF FOR APPELLEE GENERAL
CABLE:

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