

STATE OF WEST VIRGINIA

SUPREME COURT OF APPEALS

FILED

May 22, 2013

RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

BRIDGETTE A. DOBBS,
Claimant Below, Petitioner

vs.) **No. 11-1195** (BOR Appeal No. 2045494)
(Claim No. 2010107582)

GLENN ENTERPRISES, INC.,
Employer Below, Respondent

MEMORANDUM DECISION

Petitioner Bridgette A. Dobbs, by M. Jane Glauser, her attorney, appeals the decision of the West Virginia Workers' Compensation Board of Review.

This appeal arises from the Board of Review's Final Order dated July 21, 2011, in which the Board affirmed a December 23, 2010, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges affirmed the claims administrator's January 25, 2010, and May 21, 2010, decisions closing the claim for temporary total disability and vocational rehabilitation benefits. The Court has carefully reviewed the records, written arguments, and appendices contained in the briefs, and the case is mature for consideration.

This Court has considered the parties' briefs and the record on appeal. The facts and legal arguments are adequately presented, and the decisional process would not be significantly aided by oral argument. Upon consideration of the standard of review, the briefs, and the record presented, the Court finds no substantial question of law and no prejudicial error. For these reasons, a memorandum decision is appropriate under Rule 21 of the Rules of Appellate Procedure.

Ms. Dobbs was working for Glenn Enterprises, Inc. when she injured her right shoulder on September 16, 2009. On January 25, 2010, the claims administrator closed the claim for temporary total disability benefits because no evidence had been received demonstrating that Ms. Dobbs continued to be temporarily and totally disabled. On May 21, 2010, the claims administrator closed the claim for vocational rehabilitation benefits.

The Office of Judges affirmed the claims administrator's Orders, and held that Ms. Dobbs was not entitled to additional temporary total disability and vocational rehabilitation

benefits. On appeal, Ms. Dobbs disagrees and asserts that the evidence establishes that she is entitled to additional temporary total disability and vocational rehabilitation benefits.

The Office of Judges concluded that the preponderance of the evidence established that Ms. Dobbs had reached maximum medical improvement and was no longer entitled to temporary total disability benefits. It further noted that she was released to return to work, and actually returned to work. The Office of Judges also concluded that Ms. Dobbs is not entitled to additional vocational rehabilitations benefits, as she was not working due to the termination of her employment, not the compensable injury. The Board of Review reached the same reasoned conclusions in its decision of July 21, 2011. We agree with the reasoning and conclusions of the Board of Review.

For the foregoing reasons, we find that the decision of the Board of Review is not in clear violation of any constitutional or statutory provision, nor is it clearly the result of erroneous conclusions of law, nor is it based upon a material misstatement or mischaracterization of the evidentiary record. Therefore, the decision of the Board of Review is affirmed.

Affirmed.

ISSUED: May 22, 2013

CONCURRED IN BY:

Chief Justice Brent D. Benjamin
Justice Robin J. Davis
Justice Margaret L. Workman
Justice Allen H. Loughry II

DISSENTING:

Justice Menis E. Ketchum