

96-CA-1094-WC

ROBERT SPURLIN, Director of
the Special Fund

APPELLANT

v. PETITION FOR REVIEW OF A DECISION OF
 THE WORKERS' COMPENSATION BOARD
 CLAIM NO. 94-52130

LENARD KINCAID; BROOKVIEW FARM;
SHEILA LOWTHER, Administrative Law Judge;
and the WORKERS' COMPENSATION BOARD

APPELLEES

OPINION AFFIRMING
* * * * *

BEFORE: Combs, Gardner, and Gudgel, Judges.

Gudgel, Judge. This is a petition for review from an opinion of the Workers' Compensation Board rendered on March 22, 1996, affirming an opinion and award of an administrative law judge (ALJ).

The appellee, Lenard Kincaid, filed an application for benefits following a work-related injury to his back. The ALJ determined the appellee is 20% occupationally disabled, and apportioned half of the ensuing liability to the appellee, Brookview Farm, and the other half to the appellant, Special Fund. The Fund subsequently appealed the ALJ's decision to the Workers' Compensation Board (Board) contesting the propriety of

the ALJ's apportionment of liability. The Board affirmed the ALJ's decision, and this petition for review followed.

The appellant maintains that the evidence is not sufficient to support the ALJ's finding that any pre-existing condition was aroused into disabling reality thereby resulting in Special Fund liability. The Fund argues alternatively that the ALJ's finding apportioning liability against the Special Fund are inadequate. We disagree with the Fund's contentions.

As the Board noted, Dr. Snider clearly indicated that Kincaid's condition was partially attributable to the arousal of pre-existing degenerative disc disease. This testimony constitutes substantial evidence which clearly supports the ALJ's decision to apportion liability to the Special Fund. KRS 342.120. See Wells v. Phelps Dodge Magnet Co., Ky. App., 701 S.W.2d 411 (1985); Smyzer v. Goodrich Chemical Co., Ky., 474 S.W.2d 367 (1971).

Furthermore, a review of the record establishes that the ALJ did, in fact, make sufficient and adequate findings in support of her decision. See Shields v. Pittsburgh and Midway Coal Mining Co., Ky. App., 634 S.W.2d 440 (1982). The ALJ expressly found that Dr. Snider concluded that a portion of Kincaid's disability was attributable to the arousal of pre-existing disc disease. There is no medical proof to the contrary. See Commonwealth of Kentucky v. Workers' Comp. Bd. or Ky., Ky. App., 697 S.W.2d 540 (1985). Actually, the Special Fund's arguments in this vein go

to the weight of the evidence an issue which this court has no authority to address.

The decision of the Workers' Compensation Board is affirmed.

ALL CONCUR.

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