

Commonwealth Of Kentucky

Court Of Appeals

No. 1998-CA-000444-WC

COMMONWEALTH OF KENTUCKY,
DEPARTMENT OF TRANSPORTATION

APPELLANT

v. PETITION FOR REVIEW OF A DECISION OF
THE WORKERS' COMPENSATION BOARD
FILE NO. WC-94-052672

JOYCE WARD;
WORKERS' COMPENSATION BOARD;
ROBERT L. WHITTAKER, DIRECTOR
OF SPECIAL FUND; and
HONORABLE J. LANDON OVERFIELD,
ADMINISTRATIVE LAW JUDGE

APPELLEES

OPINION AFFIRMING

** ** * * * * *

BEFORE: GUDGEL, Chief Judge; DYCHE and KNOX, Judges.

DYCHE, JUDGE. The Transportation Cabinet of this Commonwealth appeals from an opinion of the Workers' Compensation Board which affirmed an award of income benefits to appellee Joyce Ward. Finding no error, we affirm.

Transportation makes four arguments, three of which maintain that the evidence in the record does not support the findings of the Administrative Law Judge. Our function in workers' compensation cases is to intervene only if there has been a flagrant misconception of the evidence resulting in gross injustice. Western Baptist Hospital v. Kelly, Ky., 827 S.W.2d

685 (1992). We have reviewed the evidence, and find no such error.

The testimony of Dr. Prerost is sufficient to support the findings of the Administrative Law Judge. That testimony establishes the work-related harmful change in Ward's body.

Appellant's argument that the Workers' Compensation Board substituted its judgment for that of the Administrative Law Judge is not well taken; the Board affirmed the ALJ, making a thorough review of the evidence, and applying the applicable law.

The opinion of the Workers' Compensation Board is affirmed.

GUDGEL, CHIEF JUDGE, CONCURS.

KNOX, JUDGE, CONCURS IN RESULT.

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