

RENDERED: APRIL 23, 2004; 2:00 p.m.
NOT TO BE PUBLISHED

Commonwealth Of Kentucky

Court Of Appeals

NO. 2003-CA-001695-WC

TERESA MILLER

APPELLANT

v.

PETITION FOR REVIEW OF A DECISION
OF THE WORKERS' COMPENSATION BOARD
ACTION NO. WC-97-58503

CORNING, INC.;
ROGER D. RIGGS, ADMINISTRATIVE LAW
JUDGE; AND THE WORKERS'
COMPENSATION BOARD

APPELLEES

OPINION
AFFIRMING

** ** * * * **

BEFORE: BARBER, KNOPF, AND SCHRODER, JUDGES.

KNOPF, JUDGE: Teresa Miller appeals pro se from an order of the Workers' Compensation Board, entered July 16, 2003, affirming the denial of her claim for income benefits. The Administrative Law Judge (ALJ) found that Miller had failed to prove that she suffered a compensable injury in either July 1997 or June 2001.

Miller contends that the Board erred by affirming those findings. We agree with the Board that the ALJ's findings satisfy the standard of review.

Miller began working for the defendant, Corning, Inc., in 1971. In July 1993 she sustained an injury while helping a co-worker lift a heavy container. She initially suffered pain in her back, neck, and down her right arm from shoulder to hand. The arm pain persisted. She underwent nerve-release surgery in 1993 and did not return to work until November 1995. Although she was able to resume working, apparently she continued to experience pain and numbness in her right arm and hand and habitually wore a splint. Notwithstanding the residual effects of her injury, Miller's workers' compensation claim was resolved adversely in April 1996 when an ALJ awarded her temporary disability benefits but found that she had not been rendered permanently disabled.

In July 1997, Miller was attempting to pass through a swinging door at work when it suddenly opened against her. The collision jammed her right arm, she claims, renewing her former pain and worsening the condition of her thumb and wrist. She missed a couple of days of work and eventually saw several physicians, none of whom could identify the source of her pain. She received cortisone injections, pain medication, and a new splint that cushioned and immobilized her thumb. These

treatments enabled her to continue working. Nevertheless, believing that the incident amounted to a new injury, not merely an aggravation of her existing condition, Miller filled the present claim in July 1999.

In June 2001, while her claim was pending, Miller was standing up from her desk when she hit her shoulder against a panel box that had come open behind her. Again, she claims, the blow caused her pain in her chest and neck and aggravated the symptoms in her arm. An emergency-room x-ray, however, disclosed no injury. She underwent pain management and continued to receive cortisone shots and pain medications. She attempted to return to work, but by July 16, 2001, the pain in her right arm and hand and her increasing inability to grip with that hand or to move her thumb compelled her to quit. She amended her claim in May 2002 to include the alleged June 2001 injury.

The ALJ found that neither the July 1997 nor the June 2001 incident had resulted in a disabling change to Miller's body. The ALJ noted that none of the many physicians who have examined Miller had been able to identify the source of her problems. Most of the scans and tests she has undergone, in particular a neurological examination by Dr. Timothy Coleman, have indicated that her condition is normal. Several physicians

averred that Miller's symptoms are likely related to the injury that occurred in 1993, but not to the incidents of 1997 or 2001.

As Corning, Inc., notes, this Court's review of factual determinations by the ALJ is highly deferential. Where the party with the burden of proof is unsuccessful before the ALJ, we may overturn the ALJ's findings only if they are so glaringly against the evidence that no rational fact finder could have arrived at them.¹ The ALJ's findings do not breach this standard. On the contrary, notwithstanding what appear to be Miller's serious problems, the medical evidence is overwhelming that those problems do not stem from Miller's workplace incidents in 1997 and 2001, incidents the evidence suggests were non-injurious. Accordingly, we affirm the July 16, 2003, order of the Workers' Compensation Board.

ALL CONCUR.

BRIEF FOR APPELLANT:

Teresa Miller, pro se
Harrodsburg, Kentucky

BRIEF FOR APPELLEE CORNING,
INC.:

Walter A. Ward
Clark & Ward
Lexington, Kentucky

¹ Western Baptist Hospital v. Kelly, Ky., 827 S.W.2d 685 (1992); Special Fund v. Francis, Ky., 708 S.W.2d 641 (1986).