

STATE OF WEST VIRGINIA

SUPREME COURT OF APPEALS

FILED

NORMA J. ELKINS, Petitioner

June 27, 2012
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

vs.) No. 11-0101 (BOR Appeal No. 2044737)
(Claim No. 2009006765)

**WEST VIRGINIA OFFICE OF
INSURANCE COMMISSIONER and
WEST VIRGINIA DEPARTMENT OF
HEALTH AND HUMAN RESOURCES, Respondent**

MEMORANDUM DECISION

Petitioner Norma J. Elkins, by John C. Blair, her attorney, appeals the decision of the Board of Review. The West Virginia Department of Health and Human Resources, by H. Dill Battle III, its attorney, filed a timely response.

This appeal arises from the West Virginia Workers' Compensation Board of Review's Final Order dated December 22, 2010, in which the Board affirmed a June 9, 2010, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges affirmed the claims administrator's March 26, 2009, decision denying Ms. Elkins's request to have the claim held compensable for bilateral carpal tunnel syndrome. The Court has carefully reviewed the records, written arguments, and appendices contained in the petition, and the case is mature for consideration.

Having considered the petition and the relevant decision of the lower tribunal, the Court is of the opinion that the decisional process would not be significantly aided by oral argument. Upon consideration of the standard of review, the Court determines that there is no prejudicial error. This case does not present a new or significant question of law. For these reasons, a memorandum decision is appropriate under Rule 21 of the Revised Rules of Appellate Procedure.

Ms. Elkins is employed as an economic service worker with the West Virginia Department of Health and Human Resources. Ms. Elkins was diagnosed with bilateral carpal tunnel syndrome on February 11, 2009. On December 18, 2009, Dr. Ranavaya performed an independent medical examination. After examining Ms. Elkins, reviewing her medical record, and reviewing recent medical literature concerning the development of carpal tunnel syndrome, he concluded that Ms.

Elkins's employment duties do not place her at an increased risk for developing carpal tunnel syndrome and that although she does suffer from bilateral carpal tunnel syndrome, it was not caused by her occupation. Dr. Ranavaya further found that Ms. Elkins possessed multiple personal risk factors that increased her chances of developing carpal tunnel syndrome such as her age, obesity, and sedentary lifestyle.

In its Order affirming the claims administrator's decision, the Office of Judges held that Ms. Elkins's employment does not place her at an increased risk for developing carpal tunnel syndrome, and that Ms. Elkins has multiple personal risk factors that are associated with the development of carpal tunnel syndrome. Ms. Elkins disputes this finding and asserts, per the opinion of her treating physician, that she developed bilateral carpal tunnel syndrome as a direct result of her employment.

In its Order, the Office of Judges relied on the opinion of Dr. Ranavaya and West Virginia Code of State Rules § 85-20-41.5 (2006), which states in part that "[s]tudies have failed to show a relationship between normal clerical activities and carpal tunnel syndrome." The Office of Judges found that although Ms. Elkins contends that she does not perform normal clerical activities, the record indicates that she works primarily in an office setting and consistently uses tools that are typical of normal clerical activities. The Board of Review reached the same reasoned conclusion in its decision of December 22, 2010.

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: June 27, 2012

CONCURRED IN BY:

Chief Justice Menis E. Ketchum

Justice Robin J. Davis

Justice Brent D. Benjamin

Justice Margaret L. Workman

Justice Thomas E. McHugh