

STATE OF WEST VIRGINIA

SUPREME COURT OF APPEALS

JAMIE A. MATNEY,
Claimant Below, Petitioner

FILED
July 19, 2013
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

vs.) **No. 11-1571** (BOR Appeal No. 2045909)
(Claim No. 2011009936)

COAL HAULERS, INC.,
Employer Below, Respondent

MEMORANDUM DECISION

Petitioner Jamie A. Matney, by Anne Wandling, his attorney, appeals the decision of the West Virginia Workers' Compensation Board of Review. Coal Haulers, Inc., by James Heslep, its attorney, filed a timely response.

This appeal arises from the Board of Review's Final Order dated October 31, 2011, in which the Board affirmed an April 26, 2011, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges affirmed the claims administrator's October 12, 2010, decision rejecting Mr. Matney's application for workers' compensation 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.

Mr. Matney alleges that he suffered an injury on September 7, 2010, while working for Coal Haulers when he stepped down from his truck and missed the last step. On October 12, 2010, the claims administrator rejected Mr. Matney's application for workers' compensation benefits because the disability complained of was not due to an injury received in the course of and resulting from his employment.

The Office of Judges affirmed the claims administrator's decision, and held that the preponderance of the evidence does not establish that Mr. Matney suffered a work-related injury on September 7, 2010. On appeal, Mr. Matney asserts that the preponderance of the evidence

does establish that he suffered an injury in the course of and resulting from his employment when he missed the last step while getting out of his work truck. Coal Haulers maintains that disparities in the record and a lack of evidence establish that there was no work-related injury.

The Office of Judges concluded that the evidence did not establish that Mr. Matney suffered an injury in the course of and resulting from his employment with Coal Haulers, Inc. It noted that despite his assertions otherwise, the evidence establishes that Mr. Matney had sought treatment for a prior neck, back, and shoulder injury. The Office of Judges also noted that Mr. Matney did not file an accident report, or follow up on the report he assumed was being filed on his behalf. Thus, the Office of Judges held that the evidence did not establish that Mr. Matney suffered a work-related injury. The Board of Review reached the same reasoned conclusions in its decision of October 31, 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: July 19, 2013

CONCURRED IN BY:

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

DISSENTING:

Justice Margaret L. Workman
Justice Menis E. Ketchum