

STATE OF WEST VIRGINIA

SUPREME COURT OF APPEALS

FILED

October 21, 2013

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

ROGER L. SUTPHIN,
Claimant Below, Petitioner

vs.) **No. 11-1684** (BOR Appeal No. 2045988)
(Claim No. 2010115993)

M & G POLYMERS USA, LLC,
Employer Below, Respondent

MEMORANDUM DECISION

Petitioner Roger L. Sutphin, by Edwin Pancake, his attorney, appeals the decision of the West Virginia Workers' Compensation Board of Review. M & G Polymers USA, LLC, by Lynn Photiadis, its attorney, filed a timely response.

This appeal arises from the Board of Review's Final Order dated November 14, 2011, in which the Board affirmed a May 5, 2011, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges affirmed the claims administrator's August 20, 2010, decision rejecting Mr. Sutphin's claim for bilateral carpal tunnel syndrome. 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. Sutphin filed an application for workers' compensation benefits for bilateral carpal tunnel syndrome on November 6, 2009. On July 22, 2010, Dr. Bachwitt performed an independent medical evaluation and found that Mr. Sutphin does not have carpal tunnel syndrome. On February 3, 2011, Dr. Mukkamala performed an independent medical evaluation and found that Mr. Sutphin has evidence of borderline carpal tunnel syndrome, but that it is not causally related to his employment. On August 20, 2010, the claims administrator rejected Mr. Sutphin's claim.

In its Order affirming the claims administrator's August 20, 2010, decision, the Office of Judges held that based on the evidence of record, Mr. Sutphin does not have work-related carpal tunnel syndrome. Mr. Sutphin disputes this finding and asserts that the evidence of record demonstrates that he suffers from bilateral carpal tunnel syndrome that is causally related to his employment.

The Office of Judges found that Mr. Sutphin was unaware that he had carpal tunnel syndrome until after he had stopped working, and it was only then incidentally discovered while he was receiving treatment for cardiac problems. The Office of Judges took note of Dr. Mukkamala's conclusion that Mr. Sutphin's excessive weight is a non-compensable risk factor for the development of carpal tunnel syndrome. Finally, the Office of Judges found that the physician who completed Mr. Sutphin's application for workers' compensation benefits failed to discuss the connection between Mr. Sutphin's employment and carpal tunnel syndrome. The Board of Review reached the same reasoned conclusions in its decision of November 14, 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: October 21, 2013

CONCURRED IN BY:

Chief Justice Brent D. Benjamin

Justice Robin J. Davis

Justice Margaret L. Workman

Justice Menis E. Ketchum

Justice Allen H. Loughry II