

**No. 27763—*Lillian Wilson v. Marion County Health Department***

McGraw, J., dissenting:

**FILED**

**January 16, 2001**  
RORY L. PERRY II, CLERK  
SUPREME COURT OF APPEALS  
OF WEST VIRGINIA

**RELEASED**

**January 17, 2001**  
RORY L. PERRY II, CLERK  
SUPREME COURT OF APPEALS  
OF WEST VIRGINIA

The Court's decision in the present case is abhorrent to basic principles of fairness. Ms. Wilson was wrongfully refused temporary total disability benefits and, as a direct result, lost the seniority that would have permitted her to keep her job. I simply fail to see how this Court can countenance such an unjust result. At the very least, the Grievance Board's action in rendering a decision on Ms. Wilson's grievance prior to a determination of her entitlement to continued workers' compensation benefits (and thus additional tenure credit) was arbitrary and capricious and characterized by an abuse of discretion, a circumstance clearly warranting relief under W. Va. Code § 29-6A-7(b). For that reason, I respectfully dissent.