

STATE OF WEST VIRGINIA

SUPREME COURT OF APPEALS

FILED

May 22, 2013

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

JOYCE G. WALKER,
Claimant Below, Petitioner

vs.) No. 11-1193 (BOR Appeal No. 2045555)
(Claim No. 2007003363)

LITTLE GENERAL STORE, INC.,
Employer Below, Respondent

MEMORANDUM DECISION

Petitioner Joyce G. Walker, by Reginald Henry, her attorney, appeals the decision of the West Virginia Workers' Compensation Board of Review. Little General Store, Inc., by Matthew Williams, its attorney, filed a timely response.

This appeal arises from the Board of Review's Final Order dated July 19, 2011, in which the Board affirmed a February 4, 2011, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges affirmed the claims administrator's March 12, 2009, decision granting Ms. Walker a 3% psychiatric permanent partial disability award. 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.

Ms. Walker was injured during a propane explosion at Little General Store, Inc. on January 30, 2007. During the explosion, she suffered broken and fractured bones, burns, cornea damage, and hearing loss. On March 12, 2009, the claims administrator granted Ms. Walker a 3% psychiatric permanent partial disability award.

The Office of Judges affirmed the claims administrator's Order, and held that the preponderance of the evidence established that Ms. Walker sustained 3% psychiatric impairment

attributable to the compensable injuries. On appeal, Ms. Walker disagrees and asserts that the evidence establishes that she suffers from 10% psychiatric impairment resulting from the explosion. Little General Store maintains that the evidence supports the finding that there is only 3% psychiatric impairment attributable to the compensable injuries. Dr. Hasan evaluated the claimant and found that Ms. Walker's depression and anxiety problems are in full remission, and she suffers from 3% psychiatric impairment. Dr. Riaz found that Ms. Walker's depressive and anxiety disorder are partially under control while her pain disorder and posttraumatic stress disorder are in remission, and found she suffers from 9% psychiatric impairment. Dr. Dar found that Ms. Walker continued to have substantial emotional difficulties from the explosion, and found she suffers from 10% psychiatric impairment. Dr. Miller found that Ms. Walker has no active psychiatric diagnosis, so she was not appropriate for an impairment rating.

In affirming the claims administrator's Order, the Office of Judges reasoned that the medical evidence established that Ms. Walker developed psychiatric sequelae as a result of her compensable injury, but that her level of psychiatric impairment has diminished over time. It noted that the explosion in Ghent, West Virginia, was an unusually traumatic event. The Office of Judges concluded that the 3% psychiatric permanent partial disability award was supported by the preponderance of the evidence. The Board of Review reached the same reasoned conclusions in its decision of July 19, 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: May 22, 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