

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

ROSEMARY GROSE,
Claimant Below, Petitioner

FILED
February 4, 2014
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

vs.) No. 11-1576 (BOR Appeal No. 2045994)
(Claim No. 2003045634)

AT & T CORPORATION,
Employer Below, Respondent

MEMORANDUM DECISION

Petitioner Rosemary Grose, by William B. Gerwig III, her attorney, appeals the decision of the West Virginia Workers' Compensation Board of Review.

This appeal arises from the Board of Review's Final Order dated November 9, 2011, in which the Board affirmed a May 26, 2011, Order of the Workers' Compensation Office of Judges. In its Order, the Office of Judges affirmed the claims administrator's June 3, 2010, decision granting Ms. Grose a 15% permanent partial disability award for her cervical and lumbar spine injuries. 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. Grose was injured while at work on February 11, 2003. Dr. Mukkamala performed an independent medical evaluation on March 16, 2010, and concluded that she had reached maximum medical improvement with regard to the compensable injuries, and required no further treatment. Under the American Medical Association's *Guides to the Evaluation of Permanent Impairment*, (4th ed. 1993), and West Virginia Code of State Rules § 85-20-Tables C and E (2006), Dr. Mukkamala found that Ms. Grose suffered a 15% whole body medical impairment attributable to the cervical and lumbar spine injuries, but no impairment for the other injuries. The claims administrator granted Ms. Grose a 15% permanent partial disability award on June 3, 2010.

The Office of Judges affirmed the claims administrator's Order, and held that the preponderance of the evidence establishes that Ms. Grose has a 15% whole body medical impairment attributable to the compensable injury. It noted that there is no evidence contrary to the findings of Dr. Mukkamala, as it was the only medical evidence provided. The Office of Judges concluded that Ms. Grose is entitled to a 15% permanent partial disability award. The Board of Review reached the same reasoned conclusions in its decision of November 9, 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: February 4, 2014

CONCURRED IN BY:

Chief Justice Robin J. Davis
Justice Brent D. Benjamin
Justice Margaret L. Workman
Justice Menis E. Ketchum
Justice Allen H. Loughry II