

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

FILED
October 30, 2013
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

LYNDA GRIFFITH,
Claimant Below, Petitioner

vs.) No. 12-0213 (BOR Appeal No. 2046187)
(Claim No. 2009062704)

ECO LAB (MARTINSBURG),
Employer Below, Respondent

MEMORANDUM DECISION

Petitioner Lynda Griffith, by William Gallagher, her attorney, appeals the decision of the West Virginia Workers' Compensation Board of Review. Eco Lab, by T. Jonathan Cook, its attorney, filed a timely response.

This appeal arises from the Board of Review's Final Order dated January 23, 2012, in which the Board affirmed a July 19, 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. Griffith a 1% permanent partial disability award for her right shoulder injury. 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. Griffith was injured on October 1, 2008, when she slipped and fell while working for Eco Lab. On October 29, 2008, the claim was held compensable for dislocation of the right shoulder, torn right rotator cuff, left knee contusion, and right knee abrasion. Ms. Griffith received extensive treatment for pain, including the use of narcotic medications, following the October 1, 2008, injury. Drs. Henrick, Vaglianti, and Knutson all diagnosed her with Reflex Sympathetic Dystrophy syndrome, which is a pain disorder, following the October 1, 2008, injury. On May 11, 2010, Dr. Ranavaya performed an independent medical evaluation and found

that there is no objective evidence in Ms. Griffith's medical record to support a diagnosis of Reflex Sympathetic Dystrophy syndrome, or any other pathology to support a basis for her continued complaints of pain. Dr. Ranavaya then recommended a 1% permanent partial disability award for range of motion abnormalities in Ms. Griffith's right shoulder resulting from the October 1, 2008, injury. On June 3, 2010, the claims administrator granted Ms. Griffith a 1% permanent partial disability award for her right shoulder injury.

In its Order affirming the June 3, 2010 claims administrator's decision, the Office of Judges held that the evidence of record demonstrates that Ms. Griffith is entitled to a 1% permanent partial disability award for her right shoulder injury. Ms. Griffith disputes this finding and asserts that the evidence of record demonstrates that she is entitled to an increased permanent partial disability award, inclusive of the diagnosis of Reflex Sympathetic Dystrophy syndrome.

The Office of Judges found that Dr. Ranavaya's recommendation of a 1% permanent partial disability award for the right shoulder injury is reliable. The Office of Judges further found that there is no evidence of record indicating that Ms. Griffith should be referred for another independent medical evaluation for the purpose of considering Reflex Sympathetic Dystrophy syndrome, which is not a compensable component of the claim. The Office of Judges noted that Ms. Griffith is requesting another independent medical evaluation on the basis that Reflex Sympathetic Dystrophy syndrome was not evaluated in the independent medical evaluation of record. The Office of Judges found that Dr. Vaglianti, one of Ms. Griffith's treating physicians, stated in his deposition that the American Medical Association's *Guides to the Evaluation of Permanent Impairment* (4th ed. 1993) provides very little reference to Reflex Sympathetic Dystrophy syndrome. Dr. Vaglianti further stated that pain is generally not given a separate rating under the *Guides to the Evaluation of Permanent Impairment*. The Board of Review reached the same reasoned conclusions in its decision of January 23, 2012. 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 30, 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