

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

Kirk Trucking Co., Inc.,
Employer Below, Petitioner

v.) **No. 22-915** (JCN: 2022018910)
(BOR Appeal No. 2075826)
(ICA No. 22-ICA-14)

Joseph S. Maynard,
Claimant Below, Respondent

MEMORANDUM DECISION

Petitioner Kirk Trucking Co., Inc. (“Kirk Trucking”) appeals the November 15, 2022, decision of the West Virginia Intermediate Court of Appeals (“ICA”). *See Kirk Trucking Co., Inc. v. Maynard*, No. 22-ICA-14, 2022 WL 17168191 (W. Va. Ct. App. Nov. 15, 2022) (memorandum decision). Respondent Joseph S. Maynard filed a timely response.¹ The issue on appeal is whether the ICA erred in affirming the Workers’ Compensation Board of Review’s (“BOR”) order, which reversed the claim administrator’s decision to reject the claim and remanded the case to the BOR with directions to issue an order making appropriate findings of fact and conclusions of law that designate the compensable conditions in the claim.

On appeal, Kirk Trucking asserts that a preponderance of the evidence of record establishes that Mr. Maynard’s injury resulted from nonoccupational illness(es), and his inexplicable decision to unfasten his seat belt and open the door of a moving truck. As such, the petitioner asserts that the February 3, 2022, injury did not result from Mr. Maynard’s employment.

This Court reviews questions of law de novo, while we accord deference to the Board of Review’s findings of fact unless the findings are clearly wrong. Syl. Pt. 3, *Duff v. Kanawha Cnty. Comm’n*, No. 23-43, 2024 WL 1715166 (W. Va. Apr. 22, 2024). Upon consideration of the record and briefs, we find no reversible error and therefore summarily affirm. *See* W. Va. R. App. P. 21(c).

Affirmed.

¹ The petitioner is represented by counsel Sean Harter, and the respondent is represented by counsel William B. Gerwig, III.

ISSUED: June 10, 2024

CONCURRED IN BY:

Chief Justice Tim Armstead
Justice Elizabeth D. Walker
Justice John A. Hutchison
Justice William R. Wooton
Justice C. Haley Bunn