

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

Murray American Energy, Inc.,¹
Employer Below, Petitioner

v.) **No. 22-926** (JCN: 2020016744)
(ICA No. 22-ICA-11)

Sean Stapel,
Claimant Below, Respondent

MEMORANDUM DECISION

Petitioner Murray American Energy, Inc. appeals the November 15, 2022, memorandum decision of the Intermediate Court of Appeals of West Virginia (“ICA”). *See Murray American Energy, Inc. v. Stapel*, No. 22-ICA-11, 2022 WL 17168190 (W. Va. Ct. App. Nov. 15, 2022) (memorandum decision). Respondent Sean Stapel filed a timely response.² The issue on appeal is whether the ICA erred in affirming the decision of the West Virginia Workers’ Compensation Office of Judges,³ which reversed the claim administrator’s February 1, 2022, order and reopened the claim for temporary total disability benefits.

The employer asserts that the Office of Judges, as affirmed by the ICA, erred in determining that the two-reopening limit pursuant to West Virginia Code § 23-4-16(a)(1) and (2) is not applicable until a permanent partial disability award has been made in a claim. The claimant maintains that the employer points to no erroneous procedure, no arbitrary or capricious conclusions, and no abuse of discretion or jurisdictional error by the tribunals below.

¹ For reasons not readily apparent in the record on appeal, the parties have substituted “Marshall County Coal Resources, Inc.” for the employer that was identified below, “Murray American Energy, Inc.” However, we use the name of the employer as designated in the order on appeal.

² The petitioner is represented by counsel Aimee M. Stern, and the respondent is represented by counsel Christopher J. Wallace.

³ The Intermediate Court of Appeals, not the Workers’ Compensation Board of Review, reviewed the Office of Judges’ decision in this case because the Office of Judges’ order was entered during the transfer to the reconstituted Board of Review. *See* W. Va. Code § 23-5-8a(a) (transferring powers and duties of Office of Judges to Board of Review).

This Court reviews questions of law de novo, while we accord deference to factual findings 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.

ISSUED: August 1, 2024

CONCURRED IN BY:

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