

**STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS**

C. CASEY FORBES, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

**Maxine Underwood,
Claimant Below, Petitioner**

v.) **No. 23-118** (JCN: 2020026380)
 (ICA No. 22-ICA-98)

**West Virginia Department of
Health and Human Resources,
Employer Below, Respondent**

MEMORANDUM DECISION

Petitioner Maxine Underwood appeals the January 10, 2023, memorandum decision of the Intermediate Court of Appeals of West Virginia (“ICA”). *See Underwood v. W. Va. Dept. of Health and Human Resources*, No. 22-ICA-98, 2023 WL 152142 (W. Va. Ct. App. Jan. 10, 2023) (memorandum decision). Respondent West Virginia Department of Health and Human Resources filed a timely response.¹ The issue on appeal is whether the ICA erred in affirming the August 19, 2022, decision of the West Virginia Workers’ Compensation Board of Review, which affirmed the Worker’s Compensation Office of Judges’ April 15, 2022, order upholding the claim administrator’s decision granting the claimant no permanent partial disability for the compensable injury.²

¹ The petitioner is represented by counsel Reginald D. Henry and Lori J. Withrow, and the respondent is represented by counsel Steven K. Wellman and James W. Heslep.

² The Board of Review decided the appeal of an order entered by the Office of Judges on April 15, 2022; this appeal was already pending at the Board of Review on June 30, 2022, when the West Virginia workers’ compensation system underwent a significant restructuring. Despite the restructuring, the Board of Review was responsible for deciding this and “all remaining appeals filed with the Board of Review, of Office of Judges’ decisions issued prior to June 30, 2022[.]” *See* W. Va. Code § 23-5-8b(e). The order entered by the Board of Review was then appealed to the ICA, which pursuant to West Virginia Code § 23-5-8b(d)(2), has exclusive jurisdiction over all final orders or decisions issued by the Board of Review after June 30, 2022. *See also* W. Va. Code § 23-5-15(a) (directing that prior statutory provisions allowing for appeals from Board of Review directly to Supreme Court of Appeals do not apply to any Board of Review decision issued after June 30, 2022.)

The claimant asserts that she should be awarded 18% permanent partial disability. The employer maintains that the claimant points to no erroneous procedure, no arbitrary or capricious conclusions, and no abuse of discretion or jurisdictional error by the tribunals below.

This Court reviews questions of law de novo, while we accord deference to the lower tribunal's findings of fact unless the findings are clearly wrong. *See* 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