STATE OF WEST VIRGINIA SUPREME COURT OF APPEALS

FILED August 27, 2024

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

Samuel J. Cox, Claimant Below, Petitioner

v.) No. 23-323 (JCN: 2019016979) (ICA No. 22-ICA-230)

Raleigh County Board of Education, Employer Below, Respondent

MEMORANDUM DECISION

Petitioner Samuel J. Cox appeals the April 10, 2023, memorandum decision of the Intermediate Court of Appeals of West Virginia ("ICA"). *See Cox v. Raleigh County Board of Education*, No. 22-ICA-230, 2023 WL 2863255 (W. Va. Ct. App Apr. 10, 2023) (memorandum decision). Respondent Raleigh County Board of Education filed a timely response. The issue on appeal is whether the ICA erred in affirming the October 11, 2022, decision of the West Virginia Workers' Compensation Board of Review, which affirmed the claim administrator's decision granting no permanent partial disability award.

The claimant asserts that he should be awarded 7% permanent partial disability for the compensable injury. 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 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.

ISSUED: August 27, 2024

¹ The petitioner is represented by counsel Reginald D. Henry and Lori J. Withrow, and the respondent is represented by counsel Jeffrey M. Carder.

CONCURRED IN BY:

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

DISSENTING:

Justice John A. Hutchison

Hutchison, Justice, dissenting:

I dissent to the majority's resolution of this case. I would have set this case for oral argument to thoroughly address the error alleged in this appeal. Having reviewed the parties' briefs and the issues raised therein, I believe a formal opinion of this Court was warranted, not a memorandum decision. Accordingly, I respectfully dissent.