

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

Kenneth Shrader,
Claimant Below, Petitioner

v.) **No. 23-631** (JCN: 2020015951)
(ICA No. 22-ICA-216)

City of Mullens,
Employer Below, Respondent

MEMORANDUM DECISION

Petitioner Kenneth Shrader appeals the September 26, 2023, memorandum decision of the Intermediate Court of Appeals of West Virginia (“ICA”). *See Shrader v. City of Mullens*, No. 23-ICA-216, 2023 WL 6290098 (W. Va. Ct. App. Sept. 26, 2023) (memorandum decision). Respondent City of Mullens (“City”) filed a timely response.¹ The issue on appeal is whether the ICA erred in affirming the May 1, 2023, decision of the West Virginia Workers’ Compensation Board of Review, which reversed the claim administrator’s April 20, 2021, order and granted a 4% permanent partial disability award instead of a 3% award.

The claimant asserts that the medical evidence shows that he should be granted an award of 12% permanent partial disability. The City counters by arguing that the record before the Board of Review supported the 4% permanent partial disability award. The City further 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*, --- W. Va. ---, 905 S.E.2d 528 (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 claimant is represented by counsel Reginald D. Henry and Lori J. Withrow, and the City is represented by counsel Jeffrey M. Carder.

ISSUED: October 30, 2024

CONCURRED IN BY:

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