

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

Jared Smith,
Claimant Below, Petitioner

v.) **No. 23-633** (JCN: 2021002789)
(ICA No. 22-ICA-113)

ArcelorMittal,
Employer Below, Respondent

MEMORANDUM DECISION

Petitioner Jared Smith appeals the September 5, 2023, memorandum decision of the Intermediate Court of Appeals of West Virginia (“ICA”). *See Smith v. ArcelorMittal*, No. 23-ICA-113, 2023 WL 5695515 (W. Va. Ct. App. Sept. 5, 2023) (memorandum decision). Respondent ArcelorMittal filed a timely response.¹ The issue on appeal is whether the ICA erred in affirming the February 16, 2022, decision of the West Virginia Workers’ Compensation Board of Review, which affirmed the claim administrator’s September 23, 2021, order granting a 5% permanent partial disability award.

The claimant asserts that the medical evidence shows that he should be granted an additional 10% for a total award of 15% permanent partial disability. The employer counters by arguing that the claimant inappropriately asks this Court to substitute its factual findings for those made by the Board of Review. The employer 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 petitioner is represented by counsel Christopher J. Wallace, and the respondent is represented by counsel Jeffrey B. Brannon.

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