

FILED
May 28, 2025

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

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

Harvey Hill,
Claimant Below, Petitioner

v.) **No. 24-785** (JCN: 2020007131)
 (ICA No. 24-ICA-212)

Lowes Home Centers, Inc.,
Employer Below, Respondent

MEMORANDUM DECISION

Petitioner Harvey Hill appeals the October 28, 2024, memorandum decision of the Intermediate Court of Appeals (“ICA”). *See Hill v. Lowes Home Ctrs., Inc.*, No. 24-ICA-212, 2024 WL 4601834 (W. Va. Ct. App. Oct. 28, 2024) (memorandum decision). Respondent Lowe’s Home Centers, Inc. filed a timely response.¹ The issue on appeal is whether the ICA erred in affirming the May 1, 2024, order by the Board of Review, which affirmed the April 24, 2023, claim administrator order granting Mr. Hill a 0% permanent partial disability award.

On appeal, the claimant argues that the ICA’s decision is clearly wrong in light of the substantial evidence in the record as a whole, and should be reversed because the evidence establishes that the claimant sustained more than a 0% whole person impairment due to the compensable injury. The claimant asserts that Bruce Guberman, M.D., opined that the diagnoses of vertigo and tremors were related to the claimant’s compensable chemical exposure. As a result, Dr. Guberman recommended that the claimant had a total of 15% impairment related to the compensable injury. The employer counters by arguing that both the ICA and Board of Review rejected Dr. Guberman’s disability rating, as it was based on ratings for non-compensable conditions. As such, the employer contends that the claimant’s criticism of the ICA’s decision is unfounded, and the memorandum decision should be upheld.

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*, 250 W. Va. 510, 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 Reginald D. Henry and Lori J. Withrow, and the respondent is represented by counsel Tracey B. Eberling.

ISSUED: May 28, 2025

CONCURRED IN BY:

Chief Justice William R. Wooton

Justice Elizabeth D. Walker

Justice Tim Armstead

Justice C. Haley Bunn

Justice Charles S. Trump IV