

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

James Spack,
Claimant Below, Petitioner

v.) No. 25-96 (JCN: 2022016774)
(ICA No. 24-ICA-241)

Mike's Appliances, LLC,
Employer Below, Respondent

MEMORANDUM DECISION

Petitioner James Spack appeals the December 6, 2024, memorandum decision of the Intermediate Court of Appeals ("ICA"). *See Spack v. Mike's Appliances, LLC*, No. 24-ICA-241, 2024 WL 5003299 (W. Va. Ct. App. Dec. 6, 2024) (memorandum decision). Respondent Mike's Appliances, LLC, filed a timely response.¹ The issue on appeal is whether the ICA erred in affirming the May 23, 2024, order by the Workers' Compensation Board of Review, which affirmed the claim administrator's order dated May 11, 2023, granting Mr. Spack no permanent partial disability award.

On appeal, the claimant argues that the decisions of the ICA and Board of Review were clearly erroneous in view of the reliable, probative, and substantial evidence in the record as a whole because the medical record provides that the claimant sustained more than 0% whole person impairment due to the compensable injury. The claimant contends that the Board of Review completely disregarded evidence in the record that reveals: 1) evidence from physicians opining that the claimant's symptoms of ulnar radiculopathy directly stemmed from the compensable injury; 2) that the hospital did not seek imaging to determine if there was nerve damage; and 3) the claimant was unable to perform his job duties after the compensable injury occurred. As such, the claimant argues that the ICA should have reversed the Board of Review's decision. The employer counters by arguing that the Board of Review's decision is supported by the preponderance of the evidence. Specifically, the employer argues that the claim is only compensable for a laceration without foreign body of the right forearm, and that Bruce A. Guberman, M.D., provided a rating for ulnar neuropathy, which is not compensable. Accordingly, the Board of Review and ICA did not err in determining that the claimant is not entitled to a permanent partial disability award for the noncompensable conditions.

¹ The petitioner is represented by counsel Reginald D. Henry and Lori J. Withrow, and the respondent is represented by counsel Jane Ann Pancake and Jeffrey B. Brannon.

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.

ISSUED: July 28, 2025

CONCURRED IN BY:

Chief Justice William R. Wooton
Justice Tim Armstead
Justice C. Haley Bunn
Justice Charles S. Trump IV