

IN THE INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

**NOAH FLEENOR,
Claimant Below, Petitioner**

v.) No. 25-ICA-76 (JCN: 2024007247)

**ALPHA METALLURGICAL RESOURCES, INC.,
Employer Below, Respondent**

FILED
September 30, 2025
ASHLEY N. DEEM, CHIEF DEPUTY CLERK
INTERMEDIATE COURT OF APPEALS
OF WEST VIRGINIA

MEMORANDUM DECISION

Petitioner Noah Fleenor appeals the January 29, 2025, order of the Workers' Compensation Board of Review ("Board"), which affirmed the claim administrator's order and found Mr. Fleenor failed to show he developed bilateral carpal tunnel syndrome ("CTS") in the course of and resulting from his employment. Alpha Metallurgical Resources, Inc. ("Alpha") filed a response.¹ Mr. Fleenor did not file a reply.

This Court has jurisdiction over this appeal pursuant to West Virginia Code § 51-11-4 (2024). After considering the parties' arguments, the record on appeal, and the applicable law, this Court finds that there is error in the Board's decision but no substantial question of law. This case satisfies the "limited circumstances" requirement of Rule 21(d) of the Rules of Appellate Procedure for reversal in a memorandum decision. For the reasons set forth below, the Board's decision is vacated and remanded for further proceedings consistent with this decision.

Mr. Fleenor began working in the coal mining industry around 2005 and was previously employed by Brooks Run Mining Company Inc. as an electrician, Delta Contracting Inc. as an equipment operator, Beckley Water Company as a general laborer, and Lightning Contract Services Inc. as an electrician. In December of 2017, he began work as an electrician for Marfork Coal Company, LLC, which is operated by Alpha, and he is still currently employed in this position. Mr. Fleenor's symptoms include constant pain and tingling, reduced grip strength, and numbness in both hands. In his deposition testimony, Mr. Fleenor stated that his symptoms began gradually approximately ten years ago and progressed over the last four to five years. Mr. Fleenor has been diagnosed with carpal tunnel syndrome, and he provided an opinion that it was caused by his occupation as an electrician in a coal mine.

¹ Mr. Fleenor is represented by Reginald D. Henry, Esq. Alpha is represented by Sean Harter, Esq.

Mr. Fleenor first sought medical attention for his symptoms on August 17, 2022, when he presented to Juli Brehm, D.O., to establish care. Mr. Fleenor told Dr. Brehm that he had numbness in both hands, and that sometimes his thumbs would draw. Dr. Brehm ordered an EMG study, which was performed by B.K. Vaught, M.D. Dr. Vaught's October 19, 2022, EMG study showed abnormalities and indicated moderately severe CTS on the right and mild CTS on the left. On May 1, 2023, Mr. Fleenor underwent wrist x-rays at Plateau Medical Center, which were interpreted as showing degenerative changes of the bilateral wrists and arthritic changes near both thumbs at the first carpometacarpal joints.

On May 4, 2023, Mr. Fleenor was seen by Stephen B. Whitfield, M.D., who diagnosed bilateral CTS that was more severe on the right and prescribed a wrist splint. Dr. Whitfield explained that Mr. Fleenor's "drawing up" of his bilateral thumbs was related to CMC arthritis rather than CTS. Dr. Whitfield indicated that it was his understanding that Mr. Fleenor was an electrician in the coal industry, that his symptoms began while working in the mines, and that his symptoms had been present for over a year.

On December 15, 2023, Mr. Fleenor submitted an Employees' and Physicians' Report of Occupational Injury or Disease completed by Dr. Whitfield, who diagnosed Mr. Fleenor with an occupational disease of CTS.² On January 30, 2024, Mr. Fleenor completed a SmartCasualty CTS form ("CTS form") which provides his work history; indicates he was right-hand dominant; and states that he worked in a job involving bending and rotation with his wrists, grasping objects with his hands, twisting, screwing and turning tools, pressing and pushing with the palm or surface of his hands, rotating his wrists, and pounding for a period of over seventeen years.

On March 6, 2024, Mr. Fleenor underwent an independent medical evaluation performed by Prasadarao B. Mukkamala, M.D., at the request of the claim administrator. Dr. Mukkamala confirmed the diagnosis of bilateral CTS, which was mild on the right and borderline on the left side. Dr. Mukkamala believed that Mr. Fleenor's CTS was unrelated to his occupational activities. Dr. Mukkamala noted that Mr. Fleenor had experienced symptoms prior to his employment at Alpha, and he did not believe that Mr. Fleenor's occupational activities at Alpha worsened the condition. Thus, Dr. Mukkamala found it was unlikely that Mr. Fleenor's condition was caused by his work activities, concluding that there was no clear-cut occupational risk factor for the development of CTS. He further noted that Mr. Fleenor was overweight, had degenerative changes at the wrist, and indicated that Mr. Fleenor's increased body mass index was a non-occupational risk factor for the development of CTS. Dr. Mukkamala also believed that Mr. Fleenor's carpometacarpal joint arthritis increased his risk factor for the development of CTS.

² The Employee's Claim Information section of the Report of Occupational Injury or Disease is blank.

Mr. Fleenor testified in a deposition on May 20, 2024. According to Mr. Fleenor, he began working as a coal miner around 2005. He first started working at Kingston as a scoop and buggy operator. Mr. Fleenor testified that these job duties required him to haul coal, rock, and mine supplies. He next worked for Brooks Run Mining beginning in 2011 or 2012 as an electrician.³ Mr. Fleenor testified that he repaired equipment during the midnight shift. He “spliced cables, took out pins, used hammers, hung panels, rewired a lot of controls, compactors, just anything to do with the electrical part of it - - basically it was just mechanic work and electrical work both.”

After Mr. Fleenor was laid off from Brooks Run, he ran heavy equipment at Delta Contracting for several months, then he worked as a general laborer for a water company for approximately four months. While at the water company, he fixed leaks and operated a backhoe. Thereafter, Mr. Fleenor worked for Lightning Contract Services as an electrician. Mr. Fleenor did not describe his job duties at Lightning Contract services. However, he testified that the tip of his left little finger was amputated while changing the head of a continuous miner.

Mr. Fleenor testified that he began working for Alpha on December 8, 2017, and that he continues to work as a mine electrician. He works approximately ten-hour shifts, five to six days a week. According to Mr. Fleenor’s testimony, he repairs equipment, including “tires, change the bits on the miners, take out pins, we fire equipment up, chains, we use hammers, we use - - I mean. Any kind of hand tools, we weld, we torch, and the list goes on, but it’s - - basically, it is...the electrician part, which is the wires and changing out the electrical components, and then you do the mechanical side of it . . .” Mr. Fleenor testified that he uses his wrists, “[y]ou have to bend them, you are squeezing something, you are pulling, I mean, I use my hands more than anything else on my body, everything an electrician does.” Mr. Fleenor also testified that he used “[q]uite a bit” of force while working: “I mean, not everything goes easy in the mines. If you are going to drive a pin in with a hammer, you are going to drive it in, you ain’t just going to tap it in.” Mr. Fleenor also said that he was exposed to “a lot of vibration,” and that he used both hands nearly equally: “there is nothing you can do one handed...Basically, you are going to swap hands and use both hands to pick up stuff, swing a hammer with both hands...sometimes you can use one, but most of the time, it is both.” According to Mr. Fleenor, the work is repetitive. “I go in, I make splices, I mean, it’s the same thing, we do the same thing every night...it is just on different equipment.”

Mr. Fleenor testified that he noticed slight symptoms in his hands nine or ten years previously, but that within the past five years, the symptoms increased. He did not seek medical attention until he began dropping objects and experiencing numbness in his hands,

³ According to Mr. Fleenor’s testimony, he worked at two mines owned by Brooks Run.

“it is just something that over the years has just been worse than it was earlier....” Mr. Fleenor also testified that his “thumbs draw.” Mr. Fleenor denied a history of rheumatoid arthritis, hypothyroidism, hypertension, diabetes, or significant trauma to the wrists. Finally, Mr. Fleenor testified that he stands 5’11” and weighs 215 pounds.

On March 19, 2024, the claim administrator denied Mr. Fleenor’s claim for CTS. The claim administrator alleged that the medical evidence did not support a causal connection between his medical condition and employment activities. Mr. Fleenor protested to the Board.

Mr. Fleenor underwent a second independent medical evaluation on August 13, 2024, which was performed by Syam B. Stoll, M.D. Dr. Stoll indicated he reviewed the medical and administrative documents in Mr. Fleenor’s case, including Mr. Fleenor’s deposition testimony. He noted that Mr. Fleenor used impact wrenches, hammers, and breaker bars. Dr. Stoll also described Mr. Fleenor’s symptoms. Dr. Stoll confirmed the diagnosis of bilateral CTS, and he concurred with Dr. Mukkamala’s opinion that Mr. Fleenor’s CTS was not caused by work activities. Dr. Stoll also believed that Mr. Fleenor’s symptoms pre-existed his employment with Alpha. According to Dr. Stoll’s report, he based his opinion on Official Disability Guidelines, which indicates that high force with repetitive activity is associated with higher levels of carpal tunnel syndrome and abnormal nerve conduction studies. Dr. Stoll concluded that after reviewing Mr. Fleenor’s CTS form, Mr. Fleenor’s work “lacks any frequency of specific activities to substantiate the causality of CTS as being causally related to his job duties.”

On January 29, 2025, the Board affirmed the claim administrator’s order which rejected the claim. It held that Mr. Fleenor’s job as a coal mine electrician was not one of the occupational groups at risk for developing CTS as identified in West Virginia Code of State Rules § 85-20-41.5 (2006) and held there was no evidence to establish a direct causal relationship between the conditions of his work and his development of CTS. It is from this order that Mr. Fleenor now appeals.

Our standard of review is set forth in West Virginia Code § 23-5-12a(b) (2022), in part, as follows:

The Intermediate Court of Appeals may affirm the order or decision of the Workers’ Compensation Board of Review or remand the case for further proceedings. It shall reverse, vacate, or modify the order or decision of the Workers’ Compensation Board of Review, if the substantial rights of the petitioner or petitioners have been prejudiced because the Board of Review’s findings are:

- (1) In violation of statutory provisions;
- (2) In excess of the statutory authority or jurisdiction of the Board of Review;

- (3) Made upon unlawful procedures;
- (4) Affected by other error of law;
- (5) Clearly wrong in view of the reliable, probative, and substantial evidence on the whole record; or
- (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Syl. Pt. 2, *Duff v. Kanawha Cnty. Comm’n*, 250 W. Va. 510, 905 S.E.2d 528 (2024).

On appeal, Mr. Fleenor asserts one assignment of error and argues the Board was clearly wrong in finding his CTS was not sustained in the course of and resulted from his employment. Pursuant to West Virginia Code § 23-4-1(f) (2024),

a disease is considered to have been incurred in the course of, or to have resulted from, the employment only if it is apparent to the rational mind, upon consideration of all circumstances: (1) That there is a direct causal connection between the conditions under which work is performed and the occupational disease; (2) that it can be seen to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment; (3) that it can be fairly traced to the employment as a proximate cause; (4) that it does not come from a hazard to which workmen would have been equally exposed outside of the employment; (5) that it is incidental to the character of the business and not independent of the relation of employer and employee; and (6) that it appears to have had its origin in a risk connected with the employment and to have flowed from that source as a natural consequence, though it need not have been foreseen or expected before its contraction[.]

In this case, the Board applied West Virginia Code § 23-4-1(f) and concluded that Mr. Fleenor’s CTS was not related to his work activities. The Board stated that “the claimant’s employment as an electrician in the coal mining industry does not fall into any of the occupational groups listed in C.S.R. §85-20-41.5. Moreover, the evidence, including the claimant’s testimony, does not indicate that the claimant performed high force, repetitive manual movement.”

A review of Mr. Fleenor’s deposition testimony suggests there is evidence that he used his hands in a high force and repetitive manner. Mr. Fleenor testified that he worked for Brooks Run beginning in 2011 or 2012 as an electrician. While at Brooks Run, he spliced cables, removed pins, used hammers, hung panels, and rewired controls. Mr. Fleenor next worked as a heavy equipment operator and general laborer for approximately six to eight months, and then began working for Alpha on December 8, 2017, as an electrician. While at Alpha, Mr. Fleenor worked ten-hour shifts, five to six days a week. Mr. Fleenor spliced cables, repaired tires, changed bits on continuous miners, and used

hammers, welders and other hand tools. He used both hands frequently, had to bend his wrists in different positions, squeeze and pull materials, his hands were exposed to vibrations, and according to Mr. Fleenor's testimony, he used "quite a bit of force" with his hands. Mr. Fleenor testified that he used his hands "more than anything else on [his] body,"

West Virginia C.S.R. §85-20-41.5 recognizes that certain work is high risk for the development of carpal tunnel syndrome. A type of work listed in Rule 41.5 is "high force, high repetitive manual movement." The Board found that Mr. Fleenor did not submit evidence of high force, repetitive work. However, our reading of Mr. Fleenor's undisputed deposition testimony shows that he did submit such evidence, and that the Board was clearly wrong when it made its finding that there was no evidence of high force, repetitive work.

The Board also relied on the opinions of Dr. Mukkamala and Dr. Stoll, when Dr. Mukkamala did not have a full description of Mr. Fleenor's work activities,⁴ and Dr. Stoll based his conclusions primarily on Official Disability Guidelines, and he failed to acknowledge that Mr. Fleenor provided a description of his job activities, which include high force, repetitive work.⁵

In summary, the Board was clearly wrong when it concluded that Mr. Fleenor did not provide evidence that he engaged in high force, repetitive work. Mr. Fleenor provided evidence that he engaged in heavy work which involved repetitive, high force manipulation of objects with both hands. Mr. Fleenor also provided an opinion from Dr. Whitfield that his work activities caused carpal tunnel syndrome.⁶ Moreover, the Board abused its discretion when it relied on Dr. Mukkamala's report, even though he did not have all information regarding Mr. Fleenor's job duties, and when it relied on Dr. Stoll, even though his conclusions are based primarily on disability guidelines and not Mr. Fleenor's actual work activities.

Accordingly, the Board's order of January 29, 2025, is vacated, and this claim is remanded to the Board for it to fully review the evidence submitted, including Mr.

⁴ Dr. Mukkamala's evaluation was made before the claimant's deposition.

⁵ Dr. Stoll's report indicates that he reviewed Mr. Fleenor's testimony. However, his conclusions appear to be based primarily on Mr. Fleenor's CTS form.

⁶ The employer argues that Dr. Whitfield's opinion should be disregarded because the claimant's section of the Report of Occupational Injury or Disease is blank. We find this argument unavailing. If the employer believed Mr. Fleenor's application was faulty, it should have rejected the claim based on an incomplete application.

Fleenor's description of his job activities, and provide an order consistent with the requirements of West Virginia Code § 23-4-1(f).

Vacated and Remanded.

ISSUED: September 30, 2025

CONCURRED IN BY:

Chief Judge Charles O. Lorensen
Judge Daniel W. Greear
Judge S. Ryan White