

The reasons for judgment of the Court were delivered orally by:

CLARKE, C.J.N.S.:

The issue prompting Mr. Downey's appeal from the decision of the Workers' Compensation Appeal Board is whether he sustained a permanent disability resulting from his work accident on June 16, 1976.

He was employed as a longshoreman and on that day he slipped and suffered an injury to his lower back and chest. He was awarded compensable benefits for a considerable time thereafter.

He was examined by several doctors who are specialists in the area of back and related problems. Mr. Downey returned to work in June, 1977. He retired from his work as a longshoreman in 1988. He asserted that his retirement was due in part to the injuries he suffered in his lower back and thigh and chest in 1976, and in part to a later injury to his ankle for which he receives some compensation. He claimed he was entitled to an award for permanent disability arising from the accident on June 16, 1976.

Mr. Downey was again examined by medical specialists whose reports were before the Board and considered in detail in a lengthy decision of the Appeal Board dated January 29, 1996. This followed a hearing on October 27, 1995. The Appeal Board disallowed Mr. Downey's claim. It summarized its conclusions as follows:

... it is the finding of the Appeal Board that the Appellant was not permanently disabled from his original work related injury of 1976 and there is no evidence of wage loss; there is no medical evidence from 1977 until he retired in 1988 which would indicate a recurring back disability; and the medical evidence on file from when the Appellant again sought attention in 1990 and onwards does not support that his present difficulties can be related to his original injuries.

Upon reviewing the record and considering the written and oral submissions of counsel, we have concluded that the Appeal Board was within jurisdiction, considered the

evidence which it is obliged to do, and reached a decision which under the **Act** it is authorized to do. It is not apparent that the Board overlooked the "benefit of the doubt" provision in s. 24. The most recent reports of Doctors Petrie, Langille and Reardon were persuasive to the Appeal Board that his present condition is not directly related to the injury of June 16, 1976. We cannot say the Appeal Board was wrong in the conclusions it reached or that in doing so it failed to follow the directions of this Court in judgments which include **Riche v. Workers' Compensation Appeal Board (N.S.)** (1992), 116 N.S.R. (2d) and 320 A.P.R.; **Hubley v. Workers' Compensation Board (N.S.)** (1992), 111 N.S.R. (2d) 295, and **Cape Breton Development Corp. v. Workers' Compensation Board (N.S.) et al** (1995), 139 N.S.R. (2d) and 397 A.P.R.

Accordingly, the appeal is dismissed.

Clarke, C.J.N.S.

Concurred in:

Matthews, J.A.

Roscoe, J.A.