

RENDERED: APRIL 18, 2003; 10:00 a.m.  
NOT TO BE PUBLISHED

**Commonwealth Of Kentucky  
Court of Appeals**

NO. 2002-CA-000023-WC

FORD MOTOR COMPANY

APPELLANT

v. PETITION FOR REVIEW OF A DECISION  
OF THE WORKERS' COMPENSATION BOARD  
ACTION NO. WC-00-00705

BETTY C. STEVENSON; RICHARD H. CAMPBELL,  
ADMINISTRATIVE LAW JUDGE; AND WORKERS'  
COMPENSATION BOARD

APPELLEE

OPINION

AFFIRMING

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BEFORE: EMBERTON, CHIEF JUDGE; HUDDLESTON, AND McANULTY,  
JUDGES.

McANULTY, JUDGE. Appellant Ford Motor Company (hereinafter Ford)  
petitions this Court for review of the opinion of the Workers'  
Compensation Board (hereinafter Board) which affirmed the  
decision of the Administrative Law Judge (ALJ) finding appellee  
Betty Stevenson 100% occupationally disabled and awarding her

benefits for permanent total disability. The purpose of review of an opinion of the Board by this court is to correct the board only where we perceive that the Board has overlooked or misconstrued controlling statutes or precedent, or committed an error in assessing the evidence so flagrant as to cause gross injustice. Western Baptist Hosp. v. Kelly, Ky., 827 S.W.2d 685 687-688 (1992).

On appeal, Ford alleges that the Board erred in determining that its argument that appellee's claim violated the statute of limitations was unpreserved by failure to challenge the ALJ's lack of findings on the issue in a motion for reconsideration. Ford argues that the ALJ did make the requisite factual findings and so it was not necessary for Ford to raise this in a petition for reconsideration. We agree with the Board that the ALJ's lack of findings on this issue needed to be raised in a petition for reconsideration. A petition for reconsideration must be filed in order to preserve patent errors or omissions of fact for judicial review. Halls Hardwood Floor Co. v. Stapleton, Ky. App., 16 S.W.3d 327 (2000); Eaton Axle Corp. v. Nally, Ky., 688 S.W.2d 334 (1985).

We do not agree with Ford that the ALJ's findings were sufficient. Even though the ALJ included the date of appellant's injury, he included no facts which supported or explained the basis for considering appellee's last day of work

to be the date she was injured. We agree that Ford should have requested review of this patent error in a petition for reconsideration. We affirm the Board on this issue since we do not perceive that the Board "overlooked or misconstrued controlling statutes or precedent," Western Baptist, supra, at 687-88.

Next, Ford argues that the Board erred in concluding that the ALJ's findings of due and timely notice, work-relatedness, and the extent and duration of appellee's disability were supported by substantial evidence. Where the party that does not bear the burden of proof is unsuccessful before the ALJ, the question on appeal is whether the decision of the ALJ is supported by substantial evidence of probative value. Wolf Creek Collieries v. Crum, Ky. App., 673 S.W.2d 735 (1984); Holman Enterprise Tobacco Warehouse v. Carter, Ky., 536 S.W.2d 461 (1976). Substantial evidence has been defined as some evidence of substance and relevant consequence, having the fitness to induce conviction in the minds of reasonable people. Smyzer v. B. F. Goodrich Chem. Co., Ky., 474 S.W.2d 367 (1971). Although a party may note some evidence which would have supported a conclusion contrary to the ALJ's decision, such evidence is not an adequate basis for reversal on appeal. Ira A. Watson Dep't Store v. Hamilton, Ky., 34 S.W.3d 48 (2000). The inquiry on appeal is whether the finding which was made is

so unreasonable under the evidence that it must be viewed as erroneous as a matter of law. Special Fund v. Francis, Ky., 708 S.W.2d 641, 643 (1986).

The ALJ relied upon the testimony of the claimant and company medical records as to the issue of notice. The ALJ's finding of work-relatedness was based upon the opinions of Drs. Auerbach and Breidenbach who found that the work she performed was the most likely cause of appellee's symptoms. Finally, the ALJ relied on these physicians, and the claimant's own testimony as to her pain and her physical limitations, in order to determine that she has a total and permanent occupational disability. We have reviewed all of the evidence, and we conclude that the findings of the ALJ were not unreasonable and there was substantial evidence to support his conclusions. Therefore, there is no basis for reversal.

For the foregoing reasons, we affirm the decision of the Workers' Compensation Board.

ALL CONCUR.

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