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TENNESSEE
WORKERS' COMPENSATION
APPEALS BOARD

TENNESSEE BUREAU OF WORKERS' COMPENSATION
WORKERS' COMPENSATION APPEALS BOARD

Israel Lara	)	Docket No. 2016-02-0501
	)	
v.	)	State File No. 94197-2015
	)	
Progress Rail Services Corp., et al.	)	
	)	
	)	
Appeal from the Court of Workers'	)	
Compensation Claims	)	
Brian K. Addington, Judge	)	

Affirmed and Remanded

In this interlocutory appeal, the employee alleges suffering an injury to his back when a co-worker dropped a piece of metal the two were carrying. The employee received authorized medical treatment for his injury but claimed he was entitled to additional medical treatment and temporary disability benefits. Following an expedited hearing, the trial court denied the employee's request for additional medical care and his request for temporary disability benefits because he provided no evidence he was unable to work as a result of the work accident. The employee has appealed. We affirm the trial court's decision and remand the case.

Presiding Judge Marshall L. Davidson, III, delivered the opinion of the Appeals Board in which Judge Timothy W. Conner and Judge David F. Hensley joined.

Israel Lara, Johnson City, Tennessee, employee-appellant, pro se

Eric Shen, Brentwood, Tennessee, for the employer-appellee, Progress Rail Services Corp.

Memorandum Opinion[1]

Israel Lara ("Employee"), a resident of Johnson City, Tennessee, worked as a laborer for Progress Rail Services Corporation ("Employer"). On November 17, 2015,

[1] "The Appeals Board may, in an effort to secure a just and speedy determination of matters on appeal and with the concurrence of all judges, decide an appeal by an abbreviated order or by memorandum opinion, whichever the Board deems appropriate, in cases that are not legally and/or factually novel or complex." Appeals Bd. Prac. & Proc. § 1.3.

Employee, with the assistance of a co-worker, was lifting a heavy piece of metal onto a pallet when the co-worker dropped his end, causing Employee to bear the weight of the entire piece. As a result, Employee claimed to have suffered an injury to his back.

Two days later, Employee was treated at Medical Care, a walk-in clinic. X-rays indicated he suffered from "[d]egenerative disk space narrowing and very mild chronic discogenic sclerosis at L5-S1." Employee was given a work excuse for five days and was assigned lifting restrictions of ten pounds. He returned to full duty six days after his injury.

Employee continued to complain of back pain and was referred to Dr. Michael Wilkinson, a pain management specialist. Dr. Wilkinson administered two injections, but Employee's pain persisted. He was then referred to a neurosurgeon, Dr. Jim Brasfield. After a series of diagnostic tests, Dr. Brasfield reported that Employee's tests were normal and placed him at maximum medical improvement. In addition, Dr. Brasfield reported that Employee "does not have any restrictions in regard to his work injury of November 17, 2015" and "he may return to his regular work without restrictions."

Due to Employee's ongoing complaints of pain and requests for additional treatment, Employer sent him to Dr. James Burt, another neurosurgeon, for an additional medical examination. After Dr. Burt reviewed Employee's records and performed an examination, he concluded:

> It is my best medical opinion [Employee] has not suffered any type of permanent disability owing to his work events of November 17, 2015. Therefore, any ongoing complaints that [he] has, I cannot relate to his November 17, 2015 work event. It is my opinion that [Employee] may participate in the work force without restrictions with regards to his lumbar spine.

Thereafter, Employee filed a petition requesting additional medical treatment and temporary disability benefits. After an expedited hearing, the trial court found that Employee failed to present sufficient evidence that he was likely to prevail at trial and denied the requested benefits. The court reasoned that, even though Employee "has pain that affects his daily life . . . the medical records indicate that he is at MMI, [and] his current complaints do not relate to the November 17, 2015 incident." The trial court also denied Employee's request for temporary disability benefits because no medical provider had taken him off work for more than five days.

Employee has appealed. However, he has failed to file a brief, failed to identify any issues for our review, does not allege any legal errors on the part of the trial court, and has not made any argument as to why the trial court's decision should be reversed. "It is not the role of the courts, trial or appellate, to research or construct a litigant's case

or arguments for him or her." *Sneed v. Bd. of Prof'l Responsibility of the Sup. Ct. of Tenn.*, 301 S.W.3d 603, 615 (Tenn. 2010). Were we to search the record for possible errors and raise issues and arguments for Employee, we would be acting as his counsel, which the law prohibits. *Webb v. Sherrell*, No. E2013-02724-COA-R3-CV, 2015 Tenn. App. LEXIS 645, at *5 (Tenn. Ct. App. Aug. 12, 2015).

The trial court's decision is affirmed, and the case is remanded. Costs on appeal are taxed to Employee.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Appeals Board's decision in the referenced case was sent to the following recipients by the following methods of service on this the 18th day of July, 2019.

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