

IN THE SUPREME COURT OF THE STATE OF DELAWARE

PAMELA J. DONEHOWER,	§
	§
Claimant Below-	§ No. 487, 1999
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ C.A. No. 99A-01-008
Employer Below-	§
Appellee.	§

Submitted: December 20, 1999
Decided: February 28, 2000

Before **VEASEY**, Chief Justice, **HARTNETT**, and **BERGER**, Justices.

ORDER

This 28th day of February 2000, upon consideration of the appellant's opening brief and the appellee's motion to affirm filed pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The appellant, Pamela Donehower, filed this appeal from an order of the Superior Court, which affirmed a decision of the Industrial Accident Board (IAB) denying Donehower's Petition to Determine Compensation Due. Donehower asserts three claims on appeal: (1) the IAB denied her procedural due process because she was not afforded a proper pretrial hearing under IAB Rule 9; (2) the IAB erred in refusing to permit her

to present the testimony of her treating psychologist; and (3) the IAB erred in denying her request for a continuance after the start of the hearing.

(2) The Court has considered the record on appeal, Donehower's opening brief and appendix, and the State's motion to affirm. Since Donehower raises her due process claim for the first time on appeal, this Court will not consider it. Supr. Ct. R. 8. For the reasons set forth in the Superior Court's well-reasoned decision dated September 20, 1999, we find it manifest on the face of Donehower's opening brief that this appeal is without merit because the issues presented are ones of discretion and clearly there was no abuse of the IAB's discretion. Furthermore, to the extent the issues are factual, clearly there was substantial evidence to support the IAB's findings of fact below and the IAB did not otherwise commit any error of law.

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger
Justice