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IN THE COURT OF APPEALS OF THE STATE OF NEW MEXICO

No. A-1-CA-40304

DAVID B. THOMPSON,

Worker-Appellant/Cross-Appellee,

v.

**KINDER MORGAN, INC. and
BROADSPIRE,**

Employer/Insurer-Appellees/Cross-Appellants.

**APPEAL FROM THE WORKERS' COMPENSATION ADMINISTRATION
Shanon S. Riley, Workers' Compensation Judge**

Michael J. Doyle
Los Lunas, NM

for Appellant

Elmore Law, LLC
Christopher T. Elmore
Albuquerque, NM

for Appellees

MEMORANDUM OPINION

DUFFY, Judge.

{1} Worker appealed and Employer/Insurer cross-appealed following the entry of a compensation order. We previously issued a notice of proposed summary disposition in which we proposed to affirm. The parties have filed responsive memoranda. After due consideration, we affirm.

{2} In their memoranda, the parties renew their contentions that the evidence should be deemed insufficient to support the WCJ's determinations relative to impairment

rating, preinjury physical capacity, and post-injury residual physical capacity. However, the parties have not asserted any facts, law, or argument that persuade us that our notice of proposed disposition was erroneous. See generally *Hennessey v. Duryea*, 1998-NMCA-036, ¶ 24, 124 N.M. 754, 955 P.2d 683 (“Our courts have repeatedly held that, in summary calendar cases, the burden is on the party opposing the proposed disposition to clearly point out errors in fact or law.”); *State v. Mondragon*, 1988-NMCA-027, ¶ 10, 107 N.M. 421, 759 P.2d 1003 (stating that a party responding to a summary calendar notice must come forward and specifically point out errors of law and fact, and the repetition of earlier arguments does not fulfill this requirement), *superseded by statute on other grounds as stated in State v. Harris*, 2013-NMCA-031, ¶ 3, 297 P.3d 374.

{3} Fundamentally, the arguments that have been advanced invite this Court to undertake more exhaustive review of the record, for the purpose of reweighing the evidence and drawing different inferences therefrom. We acknowledge that the evidence was ambiguous and conflicting in some respects. However, under such circumstances, we generally defer to the expertise of the WCJ. Although the evidence might have been capable of supporting different results, we will not disturb determinations that are supported by substantial evidence on the record as a whole. *Rodriguez v. Permian Drilling Corp.*, 2011-NMSC-032, ¶ 7, 150 N.M. 164, 258 P.3d 443. As described in the notice of proposed summary disposition, the evidence supplies adequate support for the decision rendered in this case.

{4} Accordingly, for the reasons stated in our notice of proposed disposition and herein, we affirm.

{5} IT IS SO ORDERED.

MEGAN P. DUFFY, Judge

WE CONCUR:

JACQUELINE R. MEDINA, Judge

SHAMMARA H. HENDERSON, Judge