TROY A. CHASE
(Appellant)

v.

EASTERN MAINE MEDICAL CENTER
(Appellee)

and

CROSS INSURANCE TPA, INC.
(Insurer)

Conference held: June 13, 2018
Decided: October 13, 2020

PANEL MEMBERS: Administrative Law Judges Stovall, Collier, and Knopf
BY: Administrative Law Judge Collier

[¶1] Troy Chase appeals from a decision of a Workers' Compensation Board administrative law judge (*Hirtle, ALJ*) denying his petitions alleging a compensable mental injury resulting from workplace stress pursuant to 39-A M.R.S.A. § 201(3) (2001).[1] The ALJ concluded that Mr. Chase was exposed to extraordinary and unusual work stress, but he had not demonstrated that it was the work stress, rather than stress from other sources, that was the predominant cause of his psychological condition. We conclude that the ALJ did not err when denying the petitions, and we affirm the decision.

[1] Section 201(3) has since been repealed and replaced. P.L. 2017, ch. 294, §§ 1-2 (effective Nov. 1, 2017) (codified at 39-A M.R.S.A. § 201(3-A) (Pamph. 2020)).

I. BACKGROUND

[¶2] Troy Chase was working as a registered nurse in the operating room at Eastern Maine Medical Center (EMMC) in Bangor on February 14, 2016, when he treated a young teenager who had been horribly disfigured by a self-inflicted firearm wound. Although he retained his composure while completing his shift, he began to experience intrusive recollections of the event. Shortly thereafter, Mr. Chase learned that a childhood friend had committed suicide. He sought psychological treatment, citing both the "traumatic event in the operating room" as well as his friend's recent suicide. Medical records from approximately three weeks into treatment indicate that Mr. Chase acknowledged that he "was not entirely honest with [his] clinician when he was first evaluated. . . [h]e was telling people that he was doing better than he was . . . [and] attempting to provide other reasons of 'legitimacy' as to why he was not doing better, such as telling clinician that his friend had recently killed himself as well as bringing up other losses in his life."

[¶3] Mr. Chase had experienced anxiety since adolescence and had previously sought care from a clinical social worker in the fall of 2015, who assessed him with post-traumatic stress disorder (PTSD) and generalized anxiety disorder. He had taken a two month leave of absence from EMMC, returning to work on November 24, 2015. Following the incident with the teenaged patient, Mr. Chase was assessed

with PTSD as a result of that incident and taken out of work. He did not return to work at EMMC and eventually found another position.

[¶4] Mr. Chase was evaluated by two mental health experts: Robert Gallon, Ph.D., at the employer's request, and Carlyle Voss, M.D., at his counsel's request. Dr. Gallon concluded that factors other than the work stress were significant contributors to his psychological condition, including his friend's suicide, his father's death, doubts about his career, and marital difficulties. Dr. Voss concluded that nonwork sources of stress had not contributed to Mr. Chase's condition, primarily because of the onset of symptoms after the work incident but before the friend's suicide and the 20-year time gap since his father's death. Dr. Voss did note two prior episodes of depression but stated that the more recent episode had not been explored. In a deposition, Dr. Voss stated that he had not reviewed the treatment notes from the counseling in the fall of 2015 but maintained that the work incident in February 2016 was the final straw that led to Mr. Chase's disabling psychological diagnosis.

[¶5] The ALJ found the employer's argument persuasive and concluded that Mr. Chase had not met his burden of showing, by clear and convincing evidence, that the work stress was the predominant cause of his psychological condition. Mr. Chase filed a Motion for Findings of Fact and Conclusions of Law. The ALJ denied the motion, and this appeal followed.

II. DISCUSSION

[¶6] The ALJ analyzed Mr. Chase's claim pursuant to 39-A M.R.S.A. §201(3), which provides in relevant part:

> **Mental injury caused by mental stress**. Mental injury resulting from work-related stress does not arise out of and in the course of employment unless it is demonstrated by clear and convincing evidence that:
>
> A. The work stress was extraordinary and unusual in comparison to pressures and tensions experienced by the average employee; and
>
> B. The work stress, and not some other source of stress, was the predominant cause of the mental injury.
>
> The amount of work stress must be measured by objective standards and actual events rather than any misperceptions by the employee.

[¶7] Mr. Chase contends that the ALJ's conclusion, that he had not demonstrated by clear and convincing evidence that the work stress was the predominant cause of his condition, is not supported by the factual record. He argues that the ALJ erred by focusing on generalized stress rather than the specific causal factors relevant to PTSD. Mr. Chase particularly cites Dr. Voss's testimony that "learning of the death of a childhood friend by suicide was unpleasant but would not cause PTSD." Without any plausible alternate factors in the record, he argues that he did meet his burden of showing that the predominant cause of his PTSD was workplace stress from the February 14, 2016, incident with the teenaged patient. We disagree.

[¶8] On appeal from an ALJ's decision when the burden of proof is by clear and convincing evidence, the Appellate Division looks to whether the ALJ could reasonably have been persuaded that the required factual finding was or was not proved to be highly probable. *DuBois v. Madison Paper Co.*, 2002 ME 1, ¶ 11, 795 A.2d 696; *Taylor v. Comm'r of Mental Health*, 481 A.2d 139, 153 (Me. 1984).

[¶9] Pursuant to section 201(3), the ALJ applied objective standards and concluded that Mr. Chase had met his burden by clear and convincing evidence that he was exposed to work stress that was extraordinary and unusual as compared with "the pressures experienced by the average employee" generally. *Caron v. MSAD No. 27*, 594 A.2d 560, 562-63 (Me. 1991). The ALJ, however, was not persuaded to a degree of high probability that the work stress was the predominant cause of the mental injury. The ALJ pointed to Mr. Chase's identification of nonwork sources of stress during his initial treatment, and to Dr. Voss's failure adequately to address the two-month leave of absence for mental health treatment prior to the work incident. The ALJ specifically stated that he found EMMC's position, relying on Dr. Gallon's opinion, more persuasive.

[¶10] There is evidence in the record from which the ALJ could have reached a different conclusion. However, when the record contains conflicting evidence, we do not substitute our judgement for that of the ALJ. *See Boober v. Great N. Paper Co.*, 398 A.2d 371, 375 (Me. 1979). It was within the ALJ's province to determine

whether the facts necessary for Mr. Chase to meet his burden of proof did or did not exist. *See Leo v. Am. Hoist & Derrick Co.*, 438 A.2d 917, 920-21 (Me. 1981). Based on this record, the ALJ could reasonably have been persuaded that the required factual finding—that the work stress was the predominant cause of Mr. Case's mental stress injury—was not proved to be highly probable.

III. CONCLUSION

The entry is:

The administrative law judge's decision is affirmed.

Any party in interest may request an appeal to the Maine Law Court by filing a copy of this decision with the clerk of the Law Court within twenty days of receipt of this decision and by filing a petition seeking appellate review within twenty days thereafter. 39-A M.R.S.A. § 322 (Pamph. 2020).

Pursuant to board Rule, chapter 12, § 19, all evidence and transcripts in this matter may be destroyed by the board 60 days after the expiration of the time for appeal set forth in 39-A M.R.S.A. § 322 unless (1) the board receives written notification that one or both parties wish to have their exhibits returned to them, or (2)a petition for appellate review is filed with the law court. Evidence and transcripts in cases that are appealed to the law court may be destroyed 60 days after the law court denies appellate review or issues an opinion.

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