

JOSEPH F. FERNANDS
(Appellant)

v.

RIVERVIEW PSYCHIATRIC CENTER
(Appellee)

and

STATE OF MAINE WORKERS' COMPENSATION DIVISION
(Appellee)

Conference held: December 13, 2018
Decided: January 8, 2021

PANEL MEMBERS: Administrative Law Judges Pelletier, Hirtle, and Stovall
BY: Administrative Law Judge Stovall

[¶1] Joseph Fernands appeals from a decision of a Workers' Compensation Board administrative law judge (*Elwin, ALJ*) granting in part his Petition for Payment of Medical and Related Services and Petition for Review of Automatic Discontinuance. Mr. Fernands contends that the ALJ erred in determining that he did not carry his burden of proving that he has post-traumatic stress disorder (PTSD) connected to his injury. We disagree and affirm the ALJ's decision.

I. BACKGROUND

[¶2] Mr. Fernands began working at Riverview Psychiatric Center in 2010. He sustained a work-related injury on November 13, 2014, when he fell to the floor as he struggled to separate two patients involved in a physical altercation. The ALJ found that Mr. Fernands sustained an injury to his right shoulder and that he suffers

from depression as a sequela of his physical injury. However, she also found that Mr. Fernands failed to carry his burden of proving that he has PTSD as a result of his injury. Mr. Fernands filed a Motion for Findings of Fact and Conclusions of Law pursuant to 39-A M.R.S.A. § 318 (Pamph. 2020). The ALJ made additional findings but did not change her conclusion related to the asserted claim of PTSD. Mr. Fernands appeals that decision.

II. DISCUSSION

A. Standard of Review

[¶3] The Appellate Division's role on appeal is “limited to assuring that the [ALJ’s] factual findings are supported by competent evidence, that [the] decision involved no misconception of applicable law and that the application of the law to the facts was neither arbitrary nor without rational foundation.” *Moore v. Pratt & Whitney Aircraft*, 669 A.2d 156, 158 (Me. 1995). When a party requests and proposes additional findings of fact and conclusions of law, as was done in this case, the Appellate Division reviews “only the factual findings actually made, and the legal standards actually applied” by the ALJ. *Daley v. Spinnaker Indus.*, 2002 ME 134, ¶ 17, 803 A.2d 446 (quotation marks omitted).

B. Sufficiency of the ALJs Findings

[¶4] Mr. Fernands contends the ALJ erred when determining that he did not meet his burden to prove that he suffers from PTSD as a result of the work injury,

and that his burden was met by the medical opinion of Katherine Ames, LCSW. In her initial decree, the ALJ found:

[T]he Board does not believe Mr. Fernands suffers from PTSD. PTSD was diagnosed by Katherine Ames, LCSW, rather than a psychiatrist or psychologist. As a licensed clinical social worker, Ms. Ames is allowed to access and treat patients for mental health issues; however, her diagnosis of PTSD carries less weight than if it were confirmed by a psychiatrist or psychologist. More importantly, Ms. Ames did not have an accurate understanding of Mr. Fernands' work injury, so she could not have properly evaluated the initial "trauma." While she believed that Mr. Fernands was "assaulted" by a patient, this was not the case—Mr. Fernands testified that he fell when trying to prevent an altercation between two patients. Ms. Ames also did not know that Mr. Fernands had any prior mental health issues, that he settled a prior workers' compensation stress claim, or that the sweating she viewed as an objective symptom of Mr. Fernands' stress could have been caused by his diabetes or another physical condition.

[¶5] Mr. Fernands filed a motion for findings of fact and conclusions of law.

In response, the ALJ modified her decree with respect to Ms. Ames' qualification to render a diagnosis but did not change her decision. The ALJ reasoned that "[e]ven if the Board accepts Ms. Ames' opinion that she's qualified to diagnose psychiatric disorders, the Board is not persuaded by her diagnosis for several reasons."

[¶6] The reasons listed by the ALJ include: Ms. Ames had an inaccurate understanding of Mr. Fernands' initial injury, believing that he was assaulted by a patient rather than having fell while restraining a patient; Ms. Ames supported her PTSD diagnosis in part on that fact that Mr. Fernands was jumpy if approached from

behind, basing this on an inaccurate “trauma history”; and that Ms. Ames’ opinion was based on ill-defined diagnostic criteria.

[¶7] The ALJ provided reasoning unrelated to Ms. Ames’ professional status when rejecting her opinion that the employee has PTSD. Furthermore, even though the ALJ accepted Ms. Ames’ diagnosis of depression, the ALJ was not required to accept the medical opinion in whole. *See Bradbury v. General Foods Corp.*, 218 A.2d 673, 674 (1966). Nor is the fact that Ms. Ames’ diagnosis was uncontradicted determinative. An ALJ is not bound to accept a witness’s opinion, expert or otherwise, even if uncontradicted. *Dailey v. Pinecap, Inc.*, 321 A.2d 492, 495 (Me. 1974).

III. CONCLUSION

[¶8] The ALJ’s finding that Mr. Fernands does not suffer from PTSD is supported by competent evidence, and the ALJ neither misconceived the law nor applied the law in an arbitrary or irrational manner. Accordingly, we affirm the ALJ’s decision.

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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