BRIAN JONES
(Appellant/Cross-Appellee)

v.

SHAW'S SUPERMARKETS, INC.
(Appellee/Cross-Appellant)

and

SEDGWICK

Argument held: June 9, 2016
Decided: April 21, 2017

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

[¶1] Brian Jones appeals and Shaw's Supermarkets, Inc., cross-appeals from a decision of a Workers' Compensation Board administrative law judge (*Stovall, ALJ*) granting Mr. Jones's Petition for Award and Petition for Payment of Medical and Related Services regarding a May 5, 2008, date of injury, but denying his Petition for Award and Petition for Payment of Medical and Related Services regarding a July 20, 2000, date of injury. Both parties contend that it was legal error to decide the merits of the petitions for the July 20, 2000, date of injury because the petitions were not procedurally before the ALJ. Shaw's also contends that the ALJ erred by concluding that Mr. Jones sustained a compensable work-related injury on May 5, 2008. We agree and therefore vacate and remand the

decision for a consolidated hearing and further findings of fact regarding both dates of injury.

I. BACKGROUND

[¶2] Brian Jones was hired as a warehouse worker for Shaw's in 1997. On July 20, 2000, he tripped over a pallet at work and fell, sustaining an injury to his left wrist. After missing approximately one week of work due to the injury, Mr. Jones returned to work and completed his regular duties. On or about May 5, 2008, Mr. Jones was experiencing recurrent left wrist pain and sought medical care resulting in a diagnosis of tendonitis. Mr. Jones did not seek further medical care for his left wrist until 2013 when he reported that his left wrist pain had been progressively worsening for years.

[¶3] Mr. Jones was then referred to Shaw's chosen medical provider, Dr. Upham, who opined that the left wrist symptoms were work-related and assigned a date of gradual injury of April 28, 2008. Dr. Upham was not provided with a history of Mr. Jones's left wrist injury of July 20, 2000. Despite this opinion, Shaw's contested the causal connection between Mr. Jones's work and left wrist symptoms and refused to pay for disputed medical treatment. In response to a May 14, 2013, inquiry from the insurance adjuster assigned to Mr. Jones's case, Dr. Upham issued an undated handwritten statement that Mr. Jones had denied past

trauma to his left wrist during their appointment and the doctor had discovered medical records on his own that documented the 2000 date of injury.

[¶4] Through counsel, Mr. Jones filed a Petition for Award and a Petition for Payment of Medical and Related Services regarding the May 5, 2008, date of injury. Those petitions resulted in a September 11, 2014, hearing during which Mr. Jones testified about his July 20, 2000, injury and his May 5, 2008, injury. On the day after the hearing, Mr. Jones's counsel filed a Petition for Award and a Petition for Payment of Medical and Related Services, both regarding the July 20, 2000, date of injury. Mr. Jones filed a motion to consolidate these petitions with the petitions regarding the May 5, 2008, date of injury. Shaw's objected to consolidation and on September 22, 2014, the ALJ denied the motion to consolidate the petitions regarding the two dates of injury.

[¶5] The ALJ issued a decision dated February 17, 2015, in which he found that "[Mr. Jones] also filed petitions on an asserted July 20, 2000, injury but he is not seeking any benefits under that date of injury and testified that that injury resolved. Therefore, those petitions are denied." The ALJ then adopted the causation opinion of Dr. Upham that Mr. Jones suffered a gradual work-related left wrist injury on or about May 5, 2008, and ordered Shaw's to pay the contested medical expenses associated with that date of injury. Both parties filed Motions for

Additional Findings of Fact and Conclusions of Law, which the ALJ denied. This appeal followed.

II. DISCUSSION

A. Standard of Review

[¶6] The role of the Appellate Division "is limited to assuring that the [ALJ's] 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) (quotation marks omitted). Because both parties requested findings of fact and conclusions of law following the decision, the Appellate Division will "review only the factual findings actually made and the legal standards actually applied by the [ALJ]." *Daley v. Spinnaker Inds., Inc.*, 2002 ME 134, ¶ 17, 803 A.2d 446.

B. Petitions Filed on the 2000 Date of Injury

[¶7] Both parties argue that it was legal error for the ALJ to deny the petitions for the July 20, 2000, date of injury on the merits after denying the motion to consolidate. Specifically, the parties argue that the ALJ was required to conduct a hearing on the merits of the July 20, 2000, date of injury after the petitions were filed on September 12, 2014, and before adjudicating the matters in dispute pursuant to 39-A M.R.S.A. § 318 (Supp. 2016).

[¶8] Section 318 provides, in part:

> The administrative law judge shall hear those witnesses as may be presented or, by agreement, the claims of both parties as to the facts may be presented by affidavits. If the facts are not in dispute, the parties may file with the administrative law judge an agreed statement of facts for a ruling on the applicable law. From the evidence or statements furnished, the administrative law judge shall in a summary manner decide the merits of the controversy.

In this case, because the ALJ denied Mr. Jones's motion to consolidate the petitions regarding the July 20, 2000, date of injury with the petitions regarding the May 5, 2008, date of injury, we agree that it was legal error and contrary to section 318 to adjudicate the merits of the July 20, 2000, date of injury in the decision. The ALJ's decision, insofar as it adjudicated Mr. Jones's petitions regarding the July 20, 2000, date of injury, is vacated and the matter remanded for the full formal hearing process on those petitions.

C. Petitions Filed on the 2008 Date of Injury

[¶9] Shaw's argues that the ALJ did not address evidence contrary to Mr. Jones's position—such as Dr. Upham's handwritten response to the May 14, 2013, inquiry from the insurance adjuster—and thus failed to issue sufficient findings of fact and conclusions of law, thereby justifying a remand order. *See Dube v. Paradis Pulp & Logging Co., Inc.*, 489 A.2d 10, 11 (Me. 1985) (finding error in a failure to issue findings of fact adequate to permit meaningful appellate review).

[¶10] An ALJ is not required to make findings regarding each and every piece of medical evidence in the record to explain the evidentiary basis of his or her decision. *Leo v. American Hoist & Derrick Co.*, 438 A.2d 917, 921 (Me. 1981). However, there is an obligation to generate findings of fact and conclusions of law sufficient to support meaningful appellate review. 39-A M.R.S.A. § 318; *Coty v. Town of Millinocket*, 444 A.2d 355, 357 (Me. 1982).

[¶11] In this case, with the presence of an earlier date of injury to the same body part that requires formal adjudication on the merits, we cannot conclude that the February 17, 2015, decision contained sufficient findings of fact and conclusions of law regarding the May 5, 2008, date of injury. The ALJ's decision regarding the May 5, 2008, date of injury is therefore vacated and remanded for further findings as part of a consolidated proceeding with the petitions on the July 20, 2000, date of injury.[1]

III. CONCLUSION

[¶12] It was contrary to section 318 to adjudicate the merits of petitions filed on the July 20, 2000, date of injury after denying Mr. Jones's request to consolidate those petitions with petitions pending at formal hearing. Also, given

[1] Shaw's contends that the ALJ erred by concluding that Mr. Jones sustained a compensable work-related injury on May 5, 2008, because the decision in that regard is not supported by competent evidence. Shaw's also contends that this aspect of the decision should be subject to a higher standard of review on appeal than whether supported by competent evidence, and proposes that the Appellate Division should reach a contrary conclusion on the issue of medical causation from the evidence presented. Because our conclusion that the ALJ did not make sufficient findings of fact and conclusions of law regarding the May 5, 2008, date of injury, is dispositive, we do not address these arguments.

the facts of this case, with two injuries to the same body part and limited findings regarding the medical evidence, the February 17, 2015, decision did not provide an adequate basis for meaningful appellate review relative to the May 5, 2008, date of injury.

The entry is:

> The ALJ's decision is vacated and the matter remanded for a unitary proceeding on the disputed issues regarding both dates of injury.

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 (Supp. 2016).

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