

MELISSA JAMES
(Appellant)

v.

TRACTOR SUPPLY COMPANY
(Appellee)

and

GALLAGHER BASSETT SERVICES, INC.
(Insurer)

Argument held: September 11, 2019
Decided: March 18, 2021

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

[¶1] Melissa James appeals from a decision of a Workers' Compensation Board administrative law judge (*Elwin, ALJ*) denying her Petitions for Award and for Payment of Medical and Related Services regarding an injury date of August 13, 2017. The ALJ found that there was no medical opinion to support a finding that the alleged work injury was a compensable aggravation of Ms. James's preexisting condition, and denied the petitions. Ms. James contends that the ALJ erred because her findings were not supported by competent evidence in the record. We disagree and affirm the decision.

I. BACKGROUND

[¶2] Melissa James worked as an assistant store manager for Tractor Supply Company. In May of 2017, she reported to her local hospital's emergency department for upper back pain. In follow up to this visit, Ms. James saw her primary care physician who recorded symptoms of tingling down Ms. James's left arm into her palm and finger. Five days before the alleged work injury date, Ms. James was undergoing physical therapy and reported left upper back and neck pain with tingling into her left arm and hand.

[¶3] On August 13, 2017, while moving 50 pound bags of product at work, Ms. James experienced neck pain. Ms. James's primary care physician referred her to a physiatrist who took a history that Ms. James's neck symptoms began on August 13, 2017, while lifting at work. The physiatrist conducted an imaging study which revealed a herniated cervical disc; the physiatrist then issued a report opining that the herniated cervical disc was caused by Ms. James's work activity on August 13, 2017, and that she did not have a preexisting medical condition.

[¶4] During litigation, the parties took deposition testimony from the physiatrist and provided that doctor with Ms. James's treatment records predating the work injury. The physiatrist then stated that Ms. James had a cervical disc herniation prior to the events of August 13, 2017, and that her work activities could have caused a flare up of pain. However, the physiatrist testified that he could not

state that Ms. James’s work activities worsened the disc herniation. The physiatrist also testified that he would have recommended the same treatment and restrictions for her preexisting condition as he did when he saw her after the work incident of August 13, 2017.

[¶5] The ALJ cited to the physiatrist’s deposition testimony and found that “even if Mr. James’ neck symptoms increased due to her work activities on August 13, 2017, there is no medical opinion to support a finding that this represented a significant aggravation of her pre-existing cervical disc herniation.” Specifically to the standard set forth in 39-A M.R.S.A. § 201(4) (Pamph. 2020), the ALJ found that based on the physiatrist’s opinion, “and the absence of a supportive opinion, the Board is not persuaded that Ms. James’ work activities on August 13, 2017 contributed to her disability in a significant manner.” The ALJ denied the petitions.

[¶6] Ms. James filed a Motion for Additional Findings of Fact and Conclusions of Law, but the ALJ declined to make any changes to the decision. This appeal followed.

II. DISCUSSION

A. Standard of Review

[¶7] 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 Ms. James 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 Indus., Inc.*, 2002 ME 134, ¶ 17, 803 A.2d 446.

B. Competent Evidence

[¶8] Ms. James contends that the ALJ’s finding that she did not suffer an aggravation injury is unsupported by competent evidence. To advance this argument, Ms. James cites to medical records in evidence of (1) a change in her medical treatment following the work injury date and (2) the imposition of work restrictions following the work injury date. Tractor Supply argues that the ALJ cited to competent evidence with her reliance upon the deposition testimony of the treating physiatrist, and it was within the ALJ’s purview to find that the evidence was insufficiently persuasive to establish a compensable work injury.

[¶9] We agree with Tractor Supply. While portions of the physiatrist’s written opinion and deposition testimony support the claim made by Ms. James, we find no reversible error in the ALJ’s reliance upon portions of the physiatrist’s deposition testimony that were unsupportive of the claim to ultimately deny the petitions. *Traussi v. B & G Foods, Inc.*, Me. W.C.B. 15-10, ¶ 17 (App. Div. 2015). The ALJ’s

decision was supported by competent evidence and we further find no legal error in the ALJ's application of the facts to the law in this case.¹

The entry is:

The ALJ'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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¹ Ms. James also argues that if the Appellate Division finds error in the ALJ's causation findings, that we should review the ALJ's alternative finding that she retained a partial work capacity at all relevant times. Finding no error in the ALJ's causation determination, we do not reach Ms. James's arguments about work capacity.