

SHEILA LOKKEN
(Appellant)

v.

YORK HOSPITAL
(Appellee)

and

SYNERNET
(Insurer)

Argued: February 11, 2021
Decided: March 31, 2022

PANEL MEMBERS: Administrative Law Judges Knopf, Elwin, and Hirtle
BY: Administrative Law Judge Elwin

[¶1] Sheila Lokken appeals from a decision of a Workers' Compensation Board administrative law judge (*Stovall, ALJ*) denying her Petitions for Award and for Payment of Medical and Related Services for an alleged January 22, 2019, work injury to her lower back. Ms. Lokken asserts that the ALJ erred by (1) failing to address whether a work injury occurred, (2) finding that Ms. Lokken suffered from a preexisting back condition, and (3) failing to determine whether Ms. Lokken's employment contributed to her disability in a significant manner pursuant to 39-A M.R.S.A. § 201(4). Because the basis of the ALJ's decision is unclear, we remand for additional findings of fact and conclusions of law.

I. BACKGROUND

[¶2] Ms. Lokken began working for York Hospital as a medical assistant and phlebotomist in 2015. Her duties involved repetitively standing and bending forward to draw blood from patients. Ms. Lokken felt pain in her lower back in late January 2019. She immediately mentioned to her supervisor that she was experiencing lower back pain due to her work. Ms. Lokken was diagnosed with a herniated disc at L5-S-1 and has undergone two surgeries. She went out of work on March 14, 2019, and has been out of work since that time.

[¶3] Ms. Lokken filed her petitions in August 2019. A hearing was held over two days—December 9, 2019, and January 22, 2020. The ALJ issued a decision on April 28, 2020, denying Ms. Lokken’s claims, stating “I find, based on the totality of the evidence presented, that the employee has failed to carry her burden of proving her claim.” Ms. Lokken filed a Motion for Further Findings of Fact and Conclusions of Law pursuant to 39-A M.R.S.A. § 318, which the ALJ denied. Ms. Lokken then filed this appeal.

II. DISCUSSION

[¶4] Our role on appeal is limited to assuring that the ALJ’s 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. Lokken requested additional findings of fact and conclusions of law and submitted proposed findings, we do not assume that the ALJ made all the necessary findings to support the conclusion that she did not meet her burden. *See Spear v. Town of Wells*, 2007 ME 54, ¶ 10, 922 A.2d 474. “Instead, we review the original findings and any additional findings made in response to a motion for findings to determine if they are sufficient, as a matter of law, to support the result and if they are supported by evidence in the record.” *Maietta v. Town of Scarborough*, 2004 ME 97, ¶ 17, 854 A.2d 223. “[W]e review only the factual findings actually made and the legal standards actually applied.” *Daley v. Spinnaker Indus., Inc.*, 2002 ME 134, ¶ 17, 803 A.2d 446 (quotation marks omitted).

[¶5] Ms. Lokken contends that the ALJ’s decision was arbitrary and without rational foundation because the ALJ did not address whether she failed to meet her burden to establish (1) an injury arising out of and in the course of her work as a phlebotomist for York Hospital under 39-A M.R.S.A. § 201(1); or (2) a compensable injury that aggravated, accelerated, or combined with a preexisting condition under the standard articulated in 39-A M.R.S.A. § 201(4).¹

[¶6] Ms. Lokken filed a Motion for Findings of Fact and Rulings of Law requesting additional findings on these issues. When requested, an ALJ is under an

¹ Title 39-A M.R.S.A. § 201(4) provides: “If a work-related injury aggravates, accelerates or combines with a preexisting physical condition, any resulting disability is compensable only if contributed to by the employment in a significant manner.”

affirmative duty under 39-A M.R.S.A. § 318 to make additional findings to create an adequate basis for appellate review. *See Coty v. Town of Millinocket*, 444 A.2d 355, 357 (Me. 1982). Adequate findings include those that allow the reviewing body effectively to determine the basis of the board's decision. *See Chapel Road Assocs., L.L.C. v. Town of Wells*, 2001 ME 178, ¶ 10, 787 A.2d 137.

[¶7] Although it is apparent from the decision that the ALJ did not credit Ms. Lokken's or her treating physician's testimony in multiple respects, nowhere in the decree did the ALJ state whether he found that (1) Ms. Lokken had failed to carry her burden of proving that a work injury occurred; or (2) Ms. Lokken had failed to carry her burden of proving that a work injury met the heightened causation standard of section 201(4), applicable in this case because of her preexisting low back condition.² Because we are constrained to review only the facts as found and the legal standards actually applied by the ALJ, and the ALJ did not identify the legal standards that he determined Ms. Lokken failed to meet, we cannot determine the basis of the ALJ's decision from the findings as they exist. We therefore remand for additional findings of fact and conclusions of law.

² Ms. Lokken contends that the ALJ erred when finding that she had a preexisting back condition. However, that finding is supported by competent evidence in the record, including medical records from Dr. Crawford and Mr. Attenborough, PAC, and the deposition testimony of Dr. Perez-Santiago. Accordingly, we do not disturb that finding. Additionally, contrary to allegations in Appellant's Supplemental Notice of Appeal, the ALJ accurately quoted testimony from the hearing transcript, except that the ALJ left out a short portion that was not relevant to the line of questioning without using an ellipsis. This appears to be a harmless clerical error that did not affect the outcome of the decision.

The entry is:

The administrative law judge's decision is remanded for additional findings of fact and conclusions of law pursuant to 39-A M.R.S.A. § 318.

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.

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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