HUOTUTL Y. WAAAKING
(Appellant)

v.

WAL-MART ASSOCIATES, INC.
(Appellee/Self-Insured)

Conference held: July 9, 2025
Decided: June 29, 2026

PANEL MEMBERS: Administrative Law Judges Murphy, Rooks, and Smith
BY: Administrative Law Judge Rooks

[¶1] Huotutl Waaaking appeals from a decision of a Workers' Compensation Board administrative law judge (*Elwin, ALJ*) granting his Petitions for Award of Compensation and for Payment of Medical and Related Services in part; and denying his Petition for Reinstatement. Mr. Waaaking contends the ALJ erred when determining that Mr. Waaaking's March 31, 2023, work injury was a minor aggravation of a preexisting, congenital condition that had resolved within several months of the injury. Mr. Waaaking also argues that the ALJ erred when determining Wal-Mart was not obligated to reinstate him. We disagree and affirm the decision.

I. BACKGROUND

[¶2] Huotutl Waaaking began working for Wal-mart on March 31, 2023, as an overnight stocker. He was initially assigned to the pet department where he lifted heavy bags of dog food and cat litter. During his first shift he experienced pain in his low back and left leg, and numbness in his left great toe. The next night he was

assigned to the toy department where he handled lighter items. On his third night shift, Mr. Waaaking was discovered asleep on the floor, at which time the night manager suggested he go home. On his fourth and final night shift, he worked two hours before returning home. He has not worked since.

[¶3] Two competing medical opinions were entered into evidence. The first was from Dr. Craig Curtis, an occupational medicine specialist, who examined Mr. Waaaking at Wal-Mart's request pursuant to 39-A M.R.S.A § 207. The second was from Dr. Christopher Jastram, a family physician who had been in practice for three years, and who became Mr. Waaaking's primary care provider several weeks following the work injury. Both physicians agreed that Mr. Waaaking had spondylolysis, also known as pars defect, which was confirmed by imaging. The doctors disagreed, however, on whether this condition was preexisting.

[¶4] Dr. Curtis opined that Mr. Waaaking's pars defect was congenital, and as such, preexisted the work injury. He was of the further opinion that the heavy lifting Mr. Waaaking performed on March 31, 2023, caused a "myofascial overuse strain or sprain involving the lumbar paraspinal muscles." Dr. Curtis characterized the work injury as a minor aggravation of the preexisting condition that had resolved by August 31, 2023.

[¶5] Dr. Jastram's view was that Mr. Waaaking's pars defect was a repetitive stress fracture caused by moving heavy objects during his first shift at Wal-Mart. Dr.

Jastram opined that Mr. Waaaking experienced a "tremendous change in his back pain" following that first shift, which was consistent with a "new pars fracture in his spine."

[¶6] The ALJ adopted Dr. Curtis's opinion and awarded incapacity benefits up to August 31, 2023. The ALJ further determined that Wal-Mart had no obligation to reinstate Mr. Waaaking pursuant to 39-A M.R.S.A § 218, finding that he was unable to perform any work due to a nonwork-related mental health condition.

[¶7] Mr. Waaaking filed a Motion for Further Findings of Facts and Conclusions of Law. The ALJ made changes to the original decree but did not alter the outcome. This appeal followed.

II. DISCUSSION

A. Standard of Review

[¶8] 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). "A finding of fact by an administrative law judge is not subject to appeal [before the Appellate Division.]." 39-A M.R.S.A. § 321-B. Appellate review is "limited to assuring that [the ALJ's] factual findings are supported by competent evidence." *Hall v. State*,

441 A.2d 1019, 1021 (Me. 1982). Because Mr. Waaaking 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.

[¶9] Mr. Waaaking contends that the evidentiary record, specifically Dr. Jastram's medical opinion, compels a finding that his pars defect was caused by repetitive lifting while working for Wal-Mart, and that the effects of the work injury continue. Mr. Waaaking also contends that the ALJ erred when finding that Wal-Mart was not obligated to reinstate him. We disagree on both counts.

B. Medical Evidence

[¶10] Mr. Waaaking contends that Dr. Curtis failed to adequately support his conclusion that Mr. Waaaking suffered an aggravation of a preexisting injury that has resolved rather than a new injury, and asserts his opinions are based on assumptions rather than evidence. He asserts that Dr. Jastram provided a clearer opinion regarding causation and did so based upon a patient-provider relationship.

[¶11] It is the province of an ALJ, as the factfinder, to accept or reject witness testimony and expert medical opinions, in whole or in part. *Leo v. Am. Hoist & Derrick Co.*, 438 A.2d 917, 920-21 (Me. 1981); *Rowe v. Bath Iron Works*, 428 A.2d 71, 74 (Me. 1981). The ALJ disagreed with Dr. Jastram's assessment that the lifting mechanism at work caused a "tremendous change in back pain" for two

reasons: (1) back pain was not mentioned at Mr. Waaaking's first medical appointment after the injury; and (2) toe numbness, and not back pain, was the reason for Mr. Waaaking's follow-up with Dr. Jastram. The ALJ found Dr. Curtis' opinion that the pars defect was a congenital defect to be more persuasive than Dr. Jastram's opinion because Dr. Curtis specializes in occupational medicine rather than general family practice and he has more experience than Dr. Jastram.

[¶12] The ALJ articulated valid reasons to reject Dr. Jastram's medical opinion and stated the reasons for finding Dr. Curtis' opinion more persuasive. We find no error in the ALJ's decision to adopt Dr. Curtis' opinion over that of Dr. Jastram.

C. Reinstatement

[¶13] Mr. Waaaking contends the ALJ erred when determining that he was not entitled to reinstatement due to his mental health condition. This contention lacks merit.

[¶14] Title 39-A M.R.S.A § 218 provides, in relevant part:

> **1. Reinstatement rights.** When an employee has suffered a compensable injury, the employee is entitled, upon request, to reinstatement to the employee's former position if the position is available and suitable to the employee's physical condition. If the employee's former position is not available or suitable, the employee is entitled, upon request, to reinstatement to any other available position suitable to the employee's physical condition.
>
> **2. Reasonable accommodation required.** In order to facilitate the placement of an injured employee as required under this section, the

> employer must make reasonable accommodations for the physical condition of the employee unless the employer can demonstrate that no reasonable accommodation exists or that the accommodation would impose an undue hardship on the employer.

[¶15] The ALJ found that Wal-Mart was not required to reinstate Mr. Waaaking because he is not able to work due to his mental health. She based this conclusion on competent evidence, mainly on Dr. Jastram's opinion that Mr. Waaaking's mental condition might not ever allow him to work. Additionally, she relied on Dr. Jastram's opinion that Mr. Waaaking's mental health condition is improving, and that *at some point in the future*, he might be able to try working for two hours per day.

[¶16] The ALJ also noted that Mr. Waaaking's only work experience was in a sheltered work environment; he was let go one week into the position; and he had difficulty managing in a workplace. Ms. Jodi Needham, a witness for Wal-Mart, testified that Mr. Waaaking repeatedly fell asleep during his shifts.

[¶17] The ALJ's finding that Mr. Waaaking does not have any work capacity is supported by competent evidence in the record. Under the plain language of section 218, an employer is not obligated to find alternative employment unless the employee has work capacity, as there can be no suitable work for a person without work capacity. Accordingly, we find no error.

III. CONCLUSION

[¶18] Competent evidence supports the ALJ's factual findings and provides a reasonable basis for the ALJ's decision. *See Dubois v. Madison Paper Co.*, 2002 ME 1, ¶ 16, 795 A.2d 696 ("We give deference to the findings of [the ALJ], particularly with regard to the medical/factual issues."). Moreover, the ALJ neither misconceived nor misapplied the law when determining that under section 218, Wal-Mart was not required to find alternative, suitable employment for an employee with no work capacity. *See Pomerleau v. United Parcel Serv.*, 464 A.2d 206, 209 (Me. 1983).

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.

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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