

ROBERT WITT
(Appellant)

v.

HOLLAND DRUG, INC.
(Appellee)

and

TRUMBULL INSURANCE CO.
(Insurer)

Argued: February 7, 2024
Decided: February 27, 2024

PANEL MEMBERS: Administrative Law Judges Hirtle, Chabot, and Sands
BY: Administrative Law Judge Sands

[¶1] Robert Witt appeals from a decision of an administrative law judge (*Elwin, ALJ*) denying his Petitions for Award and for Payment of Medical and Related Services. Mr. Witt contends the ALJ's determination that he failed to meet his burden to prove the occurrence of a work-related electrocution injury is arbitrary and lacks a rational foundation. He raises multiple issues on appeal, including that the ALJ failed to consider certain testimony, rejected uncontroverted evidence, and made unsupported inferences and factual findings.

[¶2] Despite Mr. Witt's contentions, we find no reversible error in the ALJ's decision. The ALJ, as the fact-finder and sole judge of the credibility of witnesses, was within her authority to choose between conflicting versions of the facts. *See Mailman's Case*, 118 Me. 172, 177, 106 A. 606, 608 (1919). The ALJ

was not required to believe the testimony of any witness, expert or otherwise, even if the witness's testimony was uncontradicted. *Rinehart v. Schubel*, 2002 ME 53, ¶ 9, 794 A.2d 73; *Dionne v. LeClerc*, 2006 ME 34, ¶ 15, 896 A.2d 923. Moreover, we defer to the ALJ's judgment regarding the significance to attach to particular pieces of evidence. *See McLaughlin v. Cmty Living Assoc.*, Me. W.C.B. No. 19-15, ¶ 11 (App. Div. 2019); *see also* Donald G. Alexander, *Maine Appellate Practice* at 314 (6th ed. 2022).

[¶3] Finally, after careful review of the record, we conclude that it is highly probable that none of the alleged factual errors identified by Mr. Witt had any impact on the outcome of the case. *See Midland Fiberglass v. L.M. Smith Corp.*, 581 A.2d 402, 403-04 (Me. 1990). Further, any inferences drawn by the ALJ are properly derived from the evidence. *See Dumont v. AT&T Mobility Servs.*, Me. W.C.B. No. 19-11, ¶ 14 (App. Div. *en banc* 2019).

[¶4] As the petitioner, Mr. Witt bore the burden of proof. *See Fernald v. Dexter Shoe Co.*, 670 A.2d 1382, 1385 (Me. 1996). "When an [ALJ] concludes that the party with the burden of proof failed to meet that burden, we will reverse that determination only if the record compels a contrary conclusion to the exclusion of any other inference." *Kelley v. Me. Pub. Employees Ret. Sys.*, 2009 ME 27, ¶ 16, 967 A.2d 676 (quotation marks omitted). Because the record does not

legally compel the conclusion that Mr. Witt sustained an electrocution injury at work, 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.

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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