STATE OF MAINE
WORKERS' COMPENSATION BOARD

APPELLATE DIVISON
Case No. App. Div. 25-0007
Decision No. 26-04

NORMAN R. GIRARD
(Appellant)

v.

BLUETRITON BRANDS, INC.
(Appellee)

and

SEDGWICK CLAIMS MANAGEMENT SERVICES
(Administrator)

Argued: September 23, 2025
Decided: June 25, 2026

PANEL MEMBERS: Administrative Law Judges Murphy, Hirtle, and Biddings.
By: Administrative Law Judge Murphy.

[¶1] Norman Girard appeals from a decision of a Workers' Compensation Board administrative law judge (*Stovall*, *ALJ*), denying his Petitions for Award and for Medical and Related Services for a left knee injury that occurred as he climbed down from a forklift. Mr. Girard contends the ALJ erred when determining that he did not establish that his employment was the legal cause of his injury. Because we determine that the ALJ's findings of fact are inadequate for appellate review, we remand the matter for additional findings regarding whether the conditions of his employment increased Mr. Girard's risk of injury above that present in everyday life.

I. BACKGROUND

[¶2] Mr. Girard is 64 years old and lives in Old Orchard Beach. He began working for Bluetriton Brands, Inc., in 2016, as a forklift operator. His job duties

include retrieving product with the forklift and loading it onto tractor trailers. On August 31, 2021,[1] Mr. Girard injured his left knee when climbing down from a forklift. He initially received conservative treatment, including physical therapy and injections, but ultimately underwent a total left knee replacement. He returned to work approximately thirteen months after the injury.

[¶3] Mr. Girard filed Petitions for Award and for Payment of Medical and Related Services. At his hearing, he testified that when dismounting the forklift, he got down backwards, first placing his left foot on the step. Next, he placed his right foot on the ground, then took his left foot from the step and placed it on the ground. Mr. Girard testified that the step on the forklift "is probably a foot or better off of the ground." When his left foot hit the ground, he experienced pain in the back of his left knee.

[¶4] In the course of litigation, Mr. Girard underwent an independent medical examination pursuant to 39-A M.R.S.A. § 312. The independent medical examiner (IME), Dr. Sacha Matthews, issued a report finding that Mr. Girard had a preexisting knee condition that included asymptomatic left knee arthritis with associated left ACL tear, a medial meniscus tear, and a Baker's cyst. The IME opined that when Mr. Girard stepped off the forklift and planted his left foot on the floor, he sustained

[1] The ALJ found that although Mr. Girard pled an August 30, 2021, date of injury, he testified the injury occurred on the last day of the month and the ALJ amended the date of injury to August 31, 2021, to conform with the evidence.

an injury that aggravated the preexisting condition in a significant manner, resulting in disability and the need for treatment. The IME affirmed these findings in a deposition. Although Mr. Girard testified that he placed his left foot on the ground when he stepped down from the forklift, the IME testified that "there must have been something more, something special about this injury or how it happened" because it was "forceful enough to rupture a Baker's cyst, and on the MRI, . . . there was still edema or inflammation in the medial gastric muscle, which speaks to a more significant injury than one is imagining just putting a foot down on the ground." The ALJ was required to accept the IME's medical findings absent clear and convincing evidence to the contrary. 39-A M.R.S.A § 312(7).

[¶5] In an initial decree, the ALJ determined that Mr. Girard established that the injury arose in the course of employment but failed to carry his burden to prove the injury arose out of the employment. Specifically, the ALJ concluded that although Mr. Girard established that the act of dismounting from the forklift was the medical cause of his injury, he did not establish that it was the legal cause. Mr. Girard subsequently filed a motion for findings of fact and conclusions of law. In response, the ALJ issued an amended decree dated March 31, 2025,[2] in which he addressed certain conflicts in the evidence, but did not alter the outcome.[3] The ALJ found that

[2] The ALJ rescinded the initial decree in its entirety when issuing the amended decree on March 31, 2025.

[3] There was a factual dispute regarding whether Mr. Girard could have stepped on debris such as a piece of wood as he placed his left foot down. The ALJ found, and there is no dispute on appeal, that Mr. Girard

Mr. Girard's description of the occurrence as merely placing his left foot on the ground when he got down from the forklift established no legal causation, and constituted clear and convincing evidence contrary to the IME's opinion that something more significant must have happened to cause the degree of injury that was sustained. Mr. Girard appeals.

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 Mr. Girard 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 he did not meet his 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

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did not step on any debris when he disembarked from the forklift, but placed his left foot directly on the ground.

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).

B. Legal Causation

[¶7] When an employee seeks compensation due to disability caused by the combined effects of an alleged work injury and a preexisting medical condition, liability is determined pursuant to 39-A M.R.S.A. § 201(4).[4] *McAdam v. United Parcel Serv.*, 2001 ME 4, ¶ 11, 763 A.2d 1173. "When a case appears to come within section 201(4), the [ALJ] must first determine whether the employee has suffered a work-related injury . . . then subsection 201(4) is applied if the employee has a condition that preceded the injury." *Celentano v. Dep't of Corr.*, 2005 ME 125, ¶ 9, 887 A.2d 512. To establish that a work injury has occurred, the employee has the burden to show that the injury arose out of and in the course of employment. 39-A M.R.S.A § 201. "In a combined effects case, the 'arising out of and in the course of' requirement is satisfied by showing both medical and legal cause." *Celentano,* ¶ 12. Medical cause is not in issue in this appeal.

[4] 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.

[¶8] To establish legal causation when "the employee bears with him some 'personal' element of risk because of a pre-existing condition, the employment must be shown to contribute some substantial element to increase the risk, thus offsetting the personal risk which the employee brings to the employment environment." *Bryant v. Masters Machine Co.*, 444 A.2d 329, 337 (Me. 1982). The comparison of the employment to personal risk is made against an objective standard; thus, an ALJ should compare the risk that arises out of the conditions of employment with the risk present in an average person's non-employment life. *Id.* The element of legal causation distinguishes "situations in which the employee just happened to be at work when the disability arose from those where the disability occurred only because an employment condition increased the risk of disability above the risks that the employee faced in everyday life." *Celentano*, 2005 ME 125, ¶ 12.

[¶9] When deciding whether certain work activity is a legal cause of incapacity, the Law Court has long followed the standard set out in *Bryant v. Masters Machine.* In *Bryant*, the employee was operating a drill press while sitting on a stool, when another employee accidentally kicked the stool out from under him. *Bryant*, 444 A.2d. at 331. The fall triggered symptoms of a previously asymptomatic back condition. *Id*. at 333. The Law Court vacated the decision that had denied compensation, determining that the injury was compensable because the conditions of employment—performing work while sitting on a stool while other employees

moved around in the environment—increased the risk that the employee would fall. *Id.* at 342-343.

[¶10] Mr. Girard contends that he established legal causation because, as a matter of law, the risk of injury when stepping down from a forklift is objectively higher than the risk of injury faced in everyday life. He further argues that the ALJ failed to make sufficient findings regarding how stepping down from a forklift objectively does not present an increased risk of injury.[5] We agree with the latter contention.

[¶11] When considering whether Mr. Girard established legal causation, the ALJ made the following findings:

> I find that the employee's action of merely placing his left foot on the floor after having placed his right foot on the floor on this sole occasion created no more risk to the employee than the average person experiences in their everyday life. Placing his left foot on the floor after placing his right floor on the floor did not constitute a condition, risk, or employment hazard that contributed to his injury.
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> . . . .

[5] Mr. Girard also asserts that the ALJ improperly applied a different legal standard from what he would have applied in a gradual injury case because this is an acute injury. Mr. Girard pled and argued this case as an acute, traumatic injury. He specifically did not contend that the injury resulted gradually from repeatedly climbing on and off the forklift over his tenure with the employer. While we agree that the standard for establishing legal causation is the same regardless of whether the injury is acute or gradual (whether an employment condition objectively increased the risk of disability above the risks that the employee faced in everyday life), *see Celentano*, 2005 ME 25, ¶ 12 (applying standard to acute injury); and *Savage v. Georgia Pacific*, Me W.C.B. No. 13-5, ¶¶ 15-16 (applying standard in a gradual injury case), the assessment of the facts is different. As opposed to an acute injury, a gradual injury is "a single injury caused by repeated, cumulative trauma without any sudden incapacitating event." *Derrig v. Fels Co*., 1999 ME 162, ¶ 7, 747 A.2d 580. The ALJ applied the correct legal standard and properly focused his assessment of the facts on those related to the sudden, incapacitating event as opposed to any facts that might have established repeated, cumulative trauma.

> The employee argues that using a forklift is, in essence, inherently dangerous, and therefore, he had met his burden of proving that his employment created an increased risk of injury. This argument is not without merit. However, my understanding is that the focus should be on whether that fact increased the risk of injury the employee sustained. Given the employee's description of how this injury occurred, I do not see that the use of the forklift contributed to his traumatic injury.

[¶12] The ALJ concluded, based on Mr. Girard's testimony, "that the employee's injury to his left [knee][6] occurred when his arthritic condition was aggravated by merely placing his left foot on the floor after placing his right foot on the floor when dismounting a forklift."

[¶13] When requested, an ALJ is under an affirmative duty pursuant to 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 to effectively 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.

[¶14] Limiting our review to the facts as found, we conclude that the ALJ's factual findings are inadequate for appellate review on the issue of whether the conditions of Mr. Girard's employment elevated the risk of injury above that of

[6] The ALJ referred here to a "left ankle" injury rather than a left knee injury. This was likely a clerical error. However, because the matter is being remanded for further findings, the ALJ can confirm this finding or correct it to reflect a left knee injury rather a left ankle injury.

average, everyday life. The ALJ acknowledged that the forklift is an inherently dangerous piece of machinery. He disagreed, however, that this "fact increased the risk of injury the employee sustained," focusing not on forklift operation as a condition of employment but instead on how Mr. Girard stepped down from the forklift. The relevant consideration here, however, is not whether the employee's conduct increased the likelihood of injury, but whether the *conditions of employment* increased the likelihood of injury. *Compare Celentano*, 2005 ME 125, ¶ 14, 887 A.2d at 515 (affirming determination that legal cause had been established when employee's trip over a table leg lit up a preexisting asymptomatic knee condition; higher risk was demonstrated by the description of the table leg and the fact that another employee had tripped over the table leg) *with Barrett v. Herbert Eng'g, Inc*., 371 A.2d 633, 636 (Me.1977) (affirming determination of no legal cause when the employee suddenly experienced severe low back pain when merely walking to retrieve tools; no condition of the employment increased the risk of injury).[7]

[¶15] The ALJ did not make specific findings regarding whether certain other evidence was relevant to the assessment of the degree of risk involved. That evidence

[7] *See also Haskell v. Katahdin Paper Co.*, Me. W.C.B. No. 13-3, ¶ 16 (App. Div. 2013) (determining that handling a heavy piece of equipment in an industrial setting is relevant to whether employment conditions increase risk of injury, and that it was inadequate to merely consider the physical act of turning the head, which caused a neck injury, when determining legal cause); *Briggs v. H & K Stevens, Inc.*, Me. W.C.B. No. 14-24, ¶ 19 (App. Div. 2014) (vacating a hearing officer decision that denied benefits for an aggravated preexisting foot condition for lack of legal causation; reasoning that standing on concrete floors for prolonged periods at work objectively increased risk of foot injury above that in everyday life).

includes Mr. Girard's testimony that the distance from the bottom step on the forklift "is probably a foot or better off the ground" and that he dismounted the piece of machinery backwards, using the method mandated by the employer. Further, the employer's representative testified that the way in which Mr. Girard stepped down from the forklift is not only a "best practice" of the employer but a "mandatory practice." The ALJ did not consider whether the need for mandatory safety practices regarding how to dismount a forklift demonstrated any enhanced risk of injury in such a dismount.

[¶16] "Because we are constrained to review only the facts as found, we cannot determine the basis of the ALJ's decision from the findings as they exist." *Lang v. Energy North, Inc.*, Me. W.C.B. No. 22-33, ¶ 13 (App. Div. 2022) (remanding the case after noting that although the facts could be inferred based on the ALJ's decision, because there were insufficient findings regarding important facts, the appellate panel could not make assumptions). Accordingly, we remand the decision for additional findings of fact and conclusions of law on the issue of whether the employment was shown, objectively, to contribute some substantial element to increase the risk of injury above that present in everyday life.

III. CONCLUSION

[¶17] Because the ALJ's findings are inadequate for appellate review, the decision is vacated and remanded to the ALJ for additional findings regarding the conditions

of Mr. Girard's employment and whether they establish legal causation. After making the necessary factual findings, if the ALJ determines that legal cause has been established, the ALJ should address the remaining outstanding issues, including but not limited to the application of section 201(4).

The entry is:

> The administrative law judge's decision is vacated, and the case is remanded for additional findings of fact and conclusions of law, consistent with this decision.

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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