

DIANE WHITE  
(Appellant)

v.

TOWN OF SIDNEY  
(Appellee)

and

MAINE MUNICIPAL ASSOCIATION  
(Insurer)

Argued: February 3, 2016  
Decided: February 18, 2016

PANEL MEMBERS: Administrative Law Judges<sup>1</sup> Hirtle, Collier, and Knopf  
BY: Administrative Law Judge Collier

[¶1] Diane White appeals from a decision of a Workers' Compensation Board Administrative Law Judge (*Elwin, ALJ*) denying her Petition for Award and Petition for Payment of Medical and Related Services. Ms. White contends that the Administrative Law Judge (ALJ) erred by concluding that Ms. White did not establish an injury to her neck, shoulders, and back arising gradually out of her work for the Town of Sidney. We find no error and affirm the decision.

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<sup>1</sup> Pursuant to P.L. 2015, ch. 297 (effective October 15, 2015) Workers' Compensation Board hearing officers licensed to practice law are now designated administrative law judges.

## I. BACKGROUND

[¶2] Diane White began working for the Town of Sidney in 2000 as Deputy Clerk, Deputy Tax Collector, Deputy Registrar, and Deputy Treasurer. Her duties included assisting residents and others who visit or call the town office, collecting fees, and processing paperwork for various transactions. Ms. White had a desk and also worked at one of three stations at the counter where there were three computers, a printer, and cash drawers. She did not have a computer at her desk until shortly before the hearing in 2015, but instead shared one located behind her desk.

[¶3] In April of 2013, Ms. White filed Petitions for Award and for Payment of Medical and Related Services alleging a work injury as of February 4, 2013. Ms. White went out of work due to increased symptoms for two months in the spring of 2013, and then went back out of work for three months from April to July of 2014.

[¶4] At the hearing, Ms. White testified about her workload and estimated that she handled 40-50 transactions per day and 80-90 on a busy day. Her supervisor testified that she handled fewer, based on certain tallies she had performed. The ALJ issued a decision stating that she was “not persuaded that Ms. White suffered a gradual injury arising out of and in the course of her work for the Town of Sidney,” and denied her petitions. The ALJ specifically found that “Ms.

White's job duties were varied, she moved frequently from her desk to the counter, and she did not maintain a static position or engage in continuous, repetitive or strenuous motions with her upper extremities." The ALJ concluded that Ms. White had overestimated the number of transactions she handled, and accepted the opinion of the doctor that examined her for the Town, who concluded that Ms. White's work activities had not caused her symptoms. Ms. White filed a Motion for Additional Findings of Fact and Conclusions of Law, which the ALJ granted but made no substantive changes to her conclusions. This appeal followed.

## II. DISCUSSION

[¶5] The Appellate Division is "limited to assuring that the [administrative law judge's] factual 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." *Pomerleau v. United Parcel Serv.*, 464 A.2d 206, 208-09 (Me. 1983).

[¶6] The witness testimony and photographic evidence provide ample support for the ALJ's factual findings. The ALJ adopted the opinion of the 39-A M.R.S.A. § 207 (Supp. 2015) examiner, Dr. Boucher, over that of Ms. White's treating doctor, Dr. Kimball. The ALJ explained that she found Dr. Kimball's brief statement of causation "conclusory," with no explanation of how Ms. White's varied work activities caused her problem, while Dr. Boucher "correctly noted that

Ms. White’s job includes ‘highly variable work functions,’ and ‘only occasional reaching and minimal overhead work.’”

### III. CONCLUSION

[¶7] There is competent evidence in the record to support the ALJ’s decision denying Ms. White’s petitions. The application of the law to the facts here was not arbitrary and had a rational foundation. Therefore, we affirm the decision.

The entry is:

The decision of the Administrative Law Judge is affirmed.

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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 (Supp. 2015).

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