DANIELLE MAGOON
(Appellee)

v.

HANNAFORD BROS. CO.
(Appellant/self-insured)

Argument held: June 12, 2019
Decided: June 17, 2021

PANEL MEMBERS: Administrative Law Judges Elwin, Collier, and Stovall
By: Administrative Law Judge Collier

[¶1] Hannaford Bros. Co. appeals from a decision of a Workers' Compensation Board administrative law judge (*Hirtle, ALJ*) granting Danielle Magoon's Petition for Award and Petition for Payment of Medical and Related Services. Hannaford contends that the ALJ erred when determining that injury arose out of her employment and particularly, whether Ms. Magoon met her burden of proof on the issue of legal causation. We affirm the decision.

I. BACKGROUND

[¶2] Danielle Magoon was working as a cashier in a Hannaford grocery store on August 6, 2014, assigned to the customer service station.[1] Because the store was busy that day, Ms. Magoon had to rush to check out customers at the customer

[1] Ms. Magoon has changed her name since the Notice of Intent to Appeal was filed in this case; it is now Danielle Magoon Crosby. We refer to her here as Danielle Magoon.

service station. She dropped a customer's receipt and squatted to pick it up from the floor. As she did so, she felt pain in her right knee. Her knee condition worsened, and eventually, Ms. Magoon underwent multiple right knee surgeries as well as treatment for right hip problems.

[¶3] Hannaford contested whether the injury arose out of Ms. Magoon's employment. After a hearing, the ALJ issued a decision concluding that the added element of rushing while performing her work duties distinguished this case from those where an injury happened to occur at work, but not because of work. Ms. Magoon was granted the protection of the Act and Hannaford was ordered to pay the disputed medical expenses. In response to the decision, Hannaford filed a Motion for Findings of Fact and Conclusions of Law. The ALJ issued an amended decision but did not alter the conclusion. Hannaford appeals.

II. DISCUSSION

A. Standard of Review

[¶4] The Appellate Division is "limited to assuring that the [ALJ'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, 209 (Me. 1983). Because Hannaford requested findings of fact and conclusions of law following the decision, the Appellate Division may "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 (quotation marks omitted). In cases where the Appellate Division reviews legal causation, the Law Court has stated that "[o]ur task is not to determine whether the [ALJ] reached the only correct conclusion but rather, whether [the ALJ's] conclusion is permissible on the record before us." *Comeau v. Me. Coastal Servs.*, 449 A.2d 362, 369 (Me. 1982).

[¶5] Hannaford contends the ALJ erred when determining that Ms. Magoon's injury arose out of her employment, asserting that there is no competent evidence to support the ALJ's finding that Ms. Magoon was rushing when she picked up the receipt; and the evidence is insufficient to show that the work activity was the legal cause of the injury. We disagree with these contentions.

B. Competent Evidence

[¶6] An injury is compensable when it "arises out of and in the course of employment," 39-A M.R.S.A. § 201 (Pamph. 2021); that is, "when there is a sufficient connection between the injury and the employment." *Celentano v. Dep't of Corr.*, 2005 ME 125, ¶ 9, 887 A.2d 512 (citing *Comeau*, 449 A.2d at 366-67). There is no dispute that the injury in this case occurred in the course of Ms. Magoon's employment. At issue is whether it arose out of the employment. An injury "arises out of" employment when there is "some causal connection between

the conditions under which the employee worked and the injury which arose, or that the injury, in some proximate way, had its origin, its source, its cause in the employment." *Comeau*, 449 A.2d at 365 (quoting *Barrett v. Herbert Eng'g, Inc.*, 371 A.2d 633, 636 (Me. 1977)).

[¶7] The ALJ made the following findings to support the conclusion that the injury was caused by Ms. Magoon's employment: the store was busy that day; Ms. Magoon was handling the customer service counter and checking out customers; she was rushing when she squatted down to pick up the customer's receipt; and she immediately experienced pain in her right knee.

[¶8] Hannaford contends there is insufficient evidence to support the factual finding that Ms. Magoon was rushing because contemporaneous medical records reflect that Ms. Magoon had previously described the mechanism of injury without stating that she was rushing. Hannaford maintains that her testimony alone does not constitute sufficient competent evidence to support the ALJ's finding.

[¶9] The ALJ, however, specifically found that Ms. Magoon presented as a credible witness and her testimony was persuasive on this issue. The fact that there was other evidence in the record from which the ALJ might have reached a different conclusion does not render this finding erroneous. It was within the ALJ's purview to determine the weight and credibility to assign to that evidence. *See Sloan v. Christianson*, 2012 ME 72, ¶ 33, 43 A.3d 978 ("The trial court is not bound to

accept any testimony or evidence as fact, and determinations of the weight and credibility to assign to the evidence are squarely in the province of the fact-finder.").

[¶10] Ms. Magoon's testimony is competent evidence that provides a sufficient basis for the ALJ's factual finding that she was rushing at the time of the injury. *See, e.g.*, *In re Maine Clean Fuels, Inc*., 310 A.2d 736, 741 (Me. 1973).

C. Legal Causation

[¶11] Hannaford also argues that the ALJ erred by concluding that the element of rushing satisfied Ms. Magoon's burden of establishing legal causation for her injury. 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, 887 A.2d 512.[2]

[¶12] Hannaford argues that the work activity in this case—squatting to retrieve a piece of paper that had fallen to the floor—is more closely analogous to

[2] We note that the ALJ applied the "increased risk" standard to establish causation, which requires the employee to show that the injury was caused by a work-related risk that exceeds that which the employee would encounter in normal, non-employment life. *See Bryant v. Masters Machine Co.*, 444 A.2d 329, 337 (Me. 1982). This standard has generally been applied in cases in which the employee suffers from a preexisting condition and therefore brings some personal element of risk of injury to the workplace. *Id.* Here, there is no finding that Ms. Magoon suffered from a preexisting condition, and 39-A M.R.S.A. § 201(4) was not applied. To the extent it was error to apply the increased risk standard, such error was harmless because the ALJ determined that Ms. Magoon met a more stringent standard for causation than may have been required. Thus, the ALJ's conclusion is permissible on the record before us. *See Comeau v. Me. Coastal Servs.*, 449 A.2d 362, 369 (Me. 1982).

the movements of the employees in cases deemed non-compensable, such as cases in which the mechanism of injury is unexplained, *see Barrett v. Hebert Eng'g, Inc.*, 371 A.2d 633 (Me. 1977) (experiencing the onset of back pain while walking at his normal gait across a level surface); or work activity that did not involve an increased risk, *DiFiore v. Me. Med. Ctr.*, Me. W.C.B. No. 18-29 (App. Div. 2016) (aggravating a preexisting back condition when bending to pick up mail from a tote bin on the floor).

[¶13] Hannaford particularly relies on *Fuller v. Hannaford Bros. Co.*, Me. W.C.B. No. 17-7 (App. Div. 2017), a case in which the employee, also a cashier at a Hannaford supermarket, aggravated a preexisting back condition when she bent and twisted to the side while discarding a receipt into a trash can. *Id.* ¶¶ 2, 3. The ALJ in that case had determined that the employment conditions had not increased the risk of injury over those of everyday life, and the Appellate Division panel affirmed the decision. *Id.* ¶ 7.

[¶14] In this case, the ALJ compared the facts to those of *Fuller* and concluded that Ms. Magoon's claim met the standard for legal causation because she was rushing and squatting as she picked up the receipt, unlike the employee in *Fuller*. Ms. Magoon's need to rush while performing her work tasks distinguishes her case from the facts of *Fuller* where the cashier turned to throw away a single paper receipt without haste. The panel in *Fuller* noted the fact that the work activity

involved only slight twisting and bending and was not an awkward or strenuous motion. *Id.* ¶ 3. Moreover, it is self-evident that dropping a receipt into the trash, even while twisting and bending slightly, is less physically strenuous than squatting to pick a similar receipt up off the floor.

[¶15] We agree with the ALJ that the added element of rushing while Ms. Magoon squatted to retrieve a receipt from the floor meets the increased risk legal causation standard. The ALJ's conclusion that Ms. Magoon injured her knee not only *while* at work but also *because* of work is supportable, and we discern no legal error in this conclusion.

III. CONCLUSION

[¶16] The ALJ's decision is supported by competent evidence, involved no misconception of applicable law, and the application of the law to the facts was neither arbitrary nor without rational foundation. *Pomerleau*, 464 A.2d at 209.

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 (Pamph. 2020).

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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