OPINION ENTERED: November 16, 2012

CLAIM NO. 200978604

PERDUE FARMS, INC. PETITIONER

VS. **APPEAL FROM HON. R. SCOTT BORDERS, ADMINISTRATIVE LAW JUDGE**

JAMES STEWART
and HON. R. SCOTT BORDERS,
ADMINISTRATIVE LAW JUDGE RESPONDENTS

OPINION
AFFIRMING
* * * * * *

BEFORE: ALVEY, Chairman, STIVERS and SMITH, Members.

STIVERS, Member. Perdue Farms, Inc. ("Perdue Farms") seeks review of the April 23, 2012, opinion, order, and award of Hon. R. Scott Borders, Administrative Law Judge ("ALJ") finding James Stewart ("Stewart") to be totally occupationally disabled and awarding permanent total disability benefits and medical benefits. Perdue Farms

also appeals from the May 18, 2012, order overruling its petition for reconsideration.

On appeal, Perdue Farms challenges the ALJ's opinion, order, and award on four grounds. First, Perdue Farms asserts the ALJ's determination Stewart is totally occupationally disabled is not supported by substantial evidence. Second, Perdue Farms contends the medical evidence and Stewart's testimony do not support a determination Stewart is totally disabled. Third, Perdue Farms maintains there is not sufficient evidence to support a finding Stewart sustained a permanent impairment as a result of a low back injury. Fourth, Perdue Farms argues the ALJ's opinion did not contain a sufficient evidentiary basis for each legal conclusion.

Stewart sustained significant injuries on September 2, 2009, when the crew cab truck he was driving was blinded by the bright lights of an oncoming vehicle and as a result his truck went into the ditch, returned to the road, and flipped over. Stewart's injuries were to his cervical and lumbar region and left shoulder.

Stewart testified at a November 2, 2011, deposition and at the February 22, 2012, hearing. At the time of the injury, Stewart was forty-six years old and had not completed the ninth grade. At his deposition, Stewart

testified his work history consisted of driving a truck and operating heavy equipment. In working as a heavy equipment operator, Stewart also built forms for concrete basements and served as a foreman digging ditches. He began working for Perdue Farms in 2003 driving a truck hauling chickens. On September 2, 2009, Stewart was the crew leader supervising the employees responsible for loading chickens into crates and then onto a truck. On that date, Stewart left Perdue Farms' farm on his way to the plant driving a "crew cab truck" containing six other crew members. Stewart explained the headlights from another Perdue Farms truck "sitting in the road" blinded him causing him to drive the truck off the road and into a ditch. When Stewart got the truck "back up on the road," it flipped over. He testified he was taken by ambulance to the Owensboro Hospital where he stayed for three or four days. During his stay at the hospital, Dr. David Eggers performed fusion surgery which Stewart testified involved inserting a plate in his neck. Later, Dr. William R. Martin performed surgery on his left shoulder. Both physicians have released Stewart from their care.

Stewart continues to see Dr. Steven Mills, his family physician, who prescribes Percocet for his neck and upper back pain. Stewart testified his neck and upper back

are “sore and hurting.” He experiences sharp pain in his neck approximately eighty-five to ninety percent of the time. Stewart testified his left shoulder hurts when he “does anything much with his left shoulder.” He testified he cannot turn his neck “real far to the left.” Stewart testified his neck pain causes headaches which are relieved by Percocet and Excedrin. He testified his upper back hurts constantly. Approximately fifty to sixty percent of the time he experiences sharp upper back pain, and the remaining time he has light pain. Stewart’s medication “pretty much” alleviates his symptoms. He testified his left shoulder is painful with activities such as picking up and lifting items. Stewart testified he does little around the house. Walking for long periods of time causes back pain which extends into his hip. Stewart testified his back pain prevents him from driving a car very far.

Stewart testified his friend, Brian Stone (“Stone”), owns a junkyard which he goes to a couple of times a week. While at the junkyard he drinks coffee and talks with Stone. Occasionally, he rides with Stone in the wrecker. He testified he does not work for Stone. Stewart testified Stone allows him to stay in a house he owns. Stewart estimated Stone had given him approximately $10,000.00 over the last couple of years with the

understanding Stewart will pay it back with the money he gets from his Social Security case. Stewart acknowledged he has done some service work on the alternator and starter of his own car. Stewart testified because of his pain there is no work he can perform. He testified before he was hurt he rode horses but since the accident he has gotten rid of his horses. Because of the bouncing caused by driving the truck, and he cannot sit in one position, Stewart does not believe he can work as an over-the-road truck driver.

Stone's February 9, 2012, deposition testimony was introduced. He testified he owns Stone's Auto Towing which is a sole proprietorship, in part, performing auto repair. Stone contracts with an individual to perform the mechanic work and occasionally pays someone to dismantle a vehicle. Stone also does the service work on his rollback trucks. Stone testified he and Stewart are friends and he has given Stewart cash although he does not know how much. Stone believes that since Stewart stopped working at Perdue Farms he has given him approximately $1,000.00. He has also allowed Stewart to stay in a house he owns. When Stewart first moved into his house he was working and paid rent. After the accident, Stewart paid rent for a short period. Stone testified that in November 2011, Stewart

paid the rent in advance through April 2012. Stewart has paid the utilities since October 2011. Since his injury, Stewart has not performed any work for Stone or his business. He acknowledged Stewart had driven his truck and hauled cars for him but was not paid. Stone denied having an arrangement with Stewart to pay him in cash for any work performed. As a favor to Stone, on occasion Stewart has driven one of his rollbacks. Stewart has not assisted Stone in working on any cars other than occasionally handing him a tool.

At the hearing, Stewart testified his work history consists of working as a heavy equipment operator and truck driver. Stewart testified he still has constant back pain located between his shoulders. His neck pain is constant and still causes headaches. Stewart cannot sit very long. Stewart cannot lean back when he sits and when sitting he is forced to slump down. He is unable to raise his left shoulder as high as his right shoulder. Stewart does not drive for long periods of time. When he goes to Stone's business he sits and talks and occasionally goes on a "wrecker run." Stewart acknowledged he has driven Stone's rollback truck on more than one occasion. Stewart testified Stone has helped with his bills because he helped Stone in the past and never charged him. Stewart testified

he cannot perform any of his previous jobs at Perdue Farms. He explained he is unable to drive a truck because it jars his neck and he cannot sit in one spot. Stewart explained he cannot operate heavy equipment because "it would really get to [his] neck and in between [his] shoulders." Stewart's symptoms have not improved since his deposition. He still cannot do much with his left shoulder and when he tries to lift he experiences pain. A surveillance video was shown depicting Stewart's activities at home and at Stone's business. Stewart insisted the video did not show him performing any work outside his physical restrictions.

Concerning Stewart's low back injury, the ALJ concluded, in relevant part, as follows:

> The first issues for determination are whether the Plaintiff suffered an injury as defined by the Act which encompasses the issue of whether or not Mr. Stewart's alleged low back condition is causally related to the September 2, 2009, work-related motor vehicle accident.
>
> [text omitted]
>
> The parties have stipulated that as a result of the September 2, 2009, motor vehicle accident, Mr. Stewart sustained a fracture injury, at two levels of his cervical spine and an injury to his left shoulder, both of which necessitated surgical repair. The true issue is whether or not Mr. Stewart suffered a lumbar sprain as a result of the motor vehicle accident.

[text omitted]

In his deposition testimony, Dr. Eggers states that Mr. Stewart had low back complaints which we evaluated and thought were nonsurgical in nature. In addition, Mr. Stewart submitted the medical report of Dr. Barefoot, who opines that as a result of the motor vehicle accident, Mr. Stewart suffered from the lumbar strain superimposed on degenerative disc disease of the lumbar spine for which he is entitled to a 7% whole person impairment pursuant to the Fifth Edition of the AMA Guides.

Perdue Farms argues that Mr. Stewart has not met his burden of proving a suffered a lumbar spine injury as a result of the motor vehicle accident September 2, 2009. In support of their [sic] position, they [sic] submitted the medical report of Dr. Beck, who opined that based on his evaluation that Mr. Stewart does not retain an impairment from any low back injury. However, Dr. Beck does not state that Mr. Stewart did not sustain an injury to his lumbar spine as a result of the motor vehicle accident. He simply states that Mr. Stewart does not retain any impairment due to a low back injury in this circumstance as well.

In this specific instance, after careful review of the lay and medical testimony, the Administrative Law Judge finds that Mr. Stewart has met his burden of proving that he suffered a lumbar strain as a result of the September 2, 2009, motor vehicle accident. In so finding, the Administrative Law Judge finds persuasive the opinions of Dr. Barefoot and Dr. Eggers, who so opined and relies on the same.

Three physicians provided impairment ratings based on the 5th Edition of the American Medical Association, Guides to the Evaluation of Permanent Impairment, ("AMA Guides") for some or all of Stewart's injuries. Dr. Jules Barefoot assessed an impairment rating of 28% for the cervical spine, 7% for the low back condition, and 14% for the left shoulder for a total combined impairment of 42%. Dr. Eggers, who treated only the cervical injury, assessed an impairment for the cervical condition of 28%. Dr. Dennis J. Beck assessed a functional impairment for the left shoulder of 11% and apparently "had nothing to add" regarding the 28% impairment assessed by the other physicians. The ALJ relied upon the impairment ratings of Dr. Barefoot for all three injuries. The ALJ determined Stewart was totally occupationally disabled, concluding as follows:

> Purdue Farms has argued that Mr. Stewart has not met his burden of proving that he is permanently and totally occupationally disabled. They based their argument on the fact that they showed the video surveillance to Dr. Eggers and Dr. Beck and subsequently both opined that based on their review of the video Mr. Stewart is capable of gainful employment. Purdue Farms argues therefore that his claim is to be limited to a permanent partial disability award without application of a statutory multipliers and that Mr.

Stewart is therefore embellishing his symptoms and exaggerating his claim.

Mr. Stewart argues that as a result of his cervical spine, lumbar spine, and left shoulder injuries, that he is permanently and totally occupationally disabled. Mr. Stewart concedes that he performed the activities that were shown in the videotape surveillance but argues that they do not show him performing any activities in excess of what he has testified he is capable of doing.

The undersigned Administrative Law Judge also had the opportunity of reviewing the surveillance video in question and did not believe that it reflected Mr. Stewart performing any activities other than those he previously testified he was capable of doing. The video showed him riding in a vehicle, driving a vehicle, pumping gas, and otherwise walking around performing some activities of daily living. There is nothing in the video surveillance tape that would lead the undersigned Administrative Law Judge to believe that Mr. Stewart is not suffering from pain and does not have significant residuals as a result of the motor vehicle accident.

KRS 342.0011 (11)(c) defines permanent total disability as meaning, "the condition of an employee who, due to an injury, has a permanent disability rating and has a complete and permanent inability to perform any type of work as a result of an injury."

In the case of *Ira Watson Department Store vs. Hamilton*, 34 SW 3d 48 (KY 2000), the Supreme Court determined that some of the factors set forth in the case of *Osborne vs. Johnson*, 432 SW 2d 800 (KY 1968) must be

considered when determining whether or not an individual is permanently and totally disabled. In a total disability claim, when determining whether or not an individual is incapable of performing any work, medical assessments remain only one of the many elements to be considered, along with such things as individuals own testimony, vocational testimony, and physiological testimony.

An individualized determination must be made of what a worker is and is not able to do after recovering from a work injury; such a determination necessarily includes a consideration of factors such as the worker's post-injury physical, emotional, intellectual, and vocational status and how those factors interact and also includes a consideration of the likelihood that the particular worker will be able to find work consistently under normal employment conditions. *McNutt Construction vs. Scott*, KY 40 SW 3d 854 (KY 2001). Mr. Stewart has testified that he has an eighth-grade education, can read and write but with difficulty, and has spent the majority of his working career either operating heavy equipment or as a truck driver. Mr. Stewart testified quite credibly that he does not believe he is capable of returning to work as a heavy equipment operator or driving a truck due to the jarring involved in both and the effect it would have on his cervical spine. He also suffers from cervical headaches that Dr. Eggers believes are direct result of his cervical injury.

The Defendant Employer, Purdue Farms argues the surveillance video reflected Mr. Stewart acting normally and performing activities of daily living, which clearly reflected he is capable of working. However, as

previously mentioned, the undersigned Administrative Law Judge had the opportunity to review the video in question and believes that it simply shows Mr. Stewart performing activities that he testified he is capable of such as driving a vehicle for short distance, riding in a vehicle, pumping gas, and hanging around the junkyard. The video did not actually show Mr. Stewart performing any physical activities in excess of his proclaimed limitations or indicate to the undersigned Administrative Law Judge that he was exaggerating his situation. To put it simply, the undersigned Administrative Law Judge was not greatly impressed by what he saw on the video.

Therefore, in the specific instance, when you compare the Plaintiffs present situation to the mandates of the Supreme Court set forth in the case of *Osborne vs. Johnson*, 432 SW 2d 800 (KY 1968), the Administrative Law Judge believes that Mr. Stewart is permanently and totally occupationally disabled.

In so finding the Administrative Law Judge notes that Mr. Stewart is 49 years of age, has an eighth-grade education with limited intellectual abilities, has worked the majority of his work life either operating heavy equipment or as a truck driver, and suffered significant injuries to his cervical spine and left shoulder that leave him with residual pain and limitations. The undersigned Administrative Law Judge simply does not believe that Mr. Stewart will be able to find work consistently under normal employment conditions in his current situation.

Perdue Farms filed a petition for reconsideration asserting the ALJ committed numerous errors in considering and analyzing the medical evidence. It maintained the ALJ erred in determining Stewart sustained a low back injury. Perdue Farms asserted the ALJ erroneously determined Stewart was permanently and totally occupationally disabled in light of the opinions expressed by the medical experts who had viewed the surveillance video of Stewart's activities. It contended the ALJ erred in determining the surveillance video was insufficient in light of the testimony of Drs. Eggers and Beck who found the video sufficiently established Stewart was physically capable of working at his previous employment as a truck driver. It also argued the ALJ erred in relying upon Dr. Barefoot's opinion because it was based on an incomplete and inaccurate history. Significantly, Perdue Farms did not request additional findings of fact. As previously noted, by order dated May 18, 2012, Perdue Farms' petition for reconsideration was overruled.

Stewart, as the claimant in a workers' compensation proceeding, had the burden of proving each of the essential elements of his cause of action, including causation. *See* KRS 342.0011(1); Snawder v. Stice, 576 S.W.2d 276 (Ky. App. 1979). Since Stewart was successful in that burden, the question on appeal is whether there was

substantial evidence of record to support the ALJ's decision. Wolf Creek Collieries v. Crum, 673 S.W.2d 735 (Ky. App. 1984). "Substantial evidence" is defined as evidence of relevant consequence having the fitness to induce conviction in the minds of reasonable persons. Smyzer v. B. F. Goodrich Chemical Co., 474 S.W.2d 367 (Ky. 1971).

In rendering a decision, KRS 342.285 grants an ALJ as fact-finder the sole discretion to determine the quality, character, and substance of evidence. Square D Co. v. Tipton, 862 S.W.2d 308 (Ky. 1993). An ALJ may draw reasonable inferences from the evidence, reject any testimony, and believe or disbelieve various parts of the evidence, regardless of whether it comes from the same witness or the same adversary party's total proof. Jackson v. General Refractories Co., 581 S.W.2d 10 (Ky. 1979); Caudill v. Maloney's Discount Stores, 560 S.W.2d 15 (Ky. 1977). An ALJ may reject any testimony and believe or disbelieve various parts of the evidence, regardless of whether it comes from the same witness or the same adversary party's total proof. Magic Coal Co. v. Fox, 19 S.W.3d 88 (Ky. 2000). In that regard, an ALJ is vested with broad authority to decide questions involving causation. Dravo Lime Co. v. Eakins, 156 S.W. 3d 283 (Ky.

2003). Although a party may note evidence that would have supported a different outcome than that reached by an ALJ, such proof is not an adequate basis to reverse on appeal. McCloud v. Beth-Elkhorn Corp., 514 S.W.2d 46 (Ky. 1974). Rather, it must be shown there was no evidence of substantial probative value to support the decision. Special Fund v. Francis, 708 S.W.2d 641 (Ky. 1986).

The function of the Board in reviewing an ALJ's decision is limited to a determination of whether the findings made are so unreasonable under the evidence that they must be reversed as a matter of law. Ira A. Watson Department Store v. Hamilton, 34 S.W.3d 48 (Ky. 2000). The Board, as an appellate tribunal, may not usurp the ALJ's role as fact-finder by superimposing its own appraisals as to weight and credibility or by noting other conclusions or reasonable inferences that otherwise could have been drawn from the evidence. Whittaker v. Rowland, 998 S.W.2d 479 (Ky. 1999).

In a June 21, 2011, report generated after conducting an independent medical examination ("IME"), Dr. Barefoot made the following diagnoses:

> 1. Status post open reduction with internal fixation of a fracture subluxation with interbody fusion of C6-C7.

> 2. Status post left shoulder athroscopy with a distal clavicle resection.
>
> 3. Degenerative disc disease of the lumbar spine.

As previously noted, Dr. Barefoot assessed a 42% whole person impairment. Regarding Stewart's limitations and restrictions, Dr. Barefoot stated:

> Mr. Stewart will continue to have significant problems with chronic pain and limited mobility in his cervical and lumbar spine as well as his left shoulder. He would have marked difficulty with any job that required prolong standing or walking. He would have difficulty with lifting and carrying heavy loads. He would not be able to work at height, on ladders or scaffolding. He is not able to operate machinery due to limited mobility present in his cervical spine.
>
> Mr. Stewart would be not be able to return to his prior position as a truck driver.

During his February 27, 2012, deposition, Dr. Eggers testified that as a result of the September 2, 2009, work injury Stewart sustained a C6-C7 cervical fracture on the left. As a result, he performed a "cervical discectomy and fusion." Dr. Eggers only treated Stewart's neck injury. Dr. Eggers acknowledged that in his March 31, 2010, report, Stewart had complaints of upper neck pain, occasional headaches which were not too severe, and no

radicular symptomology. Dr. Eggers stated that after a successful cervical fusion typically he will allow the patient to return to work. Dr. Eggers then stated as follows:

> Q: But on this March 31, 2010, note you indicate that 'Between the shoulder, neck, and low back situations, I do not feel he is capable of gainful employment. He has a disability claim in place, and I believe he should receive this.'
>
> A: Yes.
>
> Q: Okay. What I ask you is, what's different about his recovery in terms of his cervical disc fusion in your typical patient where your typical patient would be released to go to return to gainful employment?
>
> A: I think in this case that statement is predicated on he was complaining of upper neck pain. Of course, his break was in the lower neck, maybe not directly related to the surgical area. Also he had the shoulder issue, and he had low back complaints. And he just seemed to complain about things all over. It didn't look like the guy was going to make it back to work.

Dr. Eggers testified that based on the surveillance video his previous statement that Stewart was not capable of gainful employment was no longer applicable.

After providing this testimony, Dr. Eggers testified there was "considerable disruption of the disc

and ligamentous structures as well as the joint fracture" which caused the injury to be a more significant. Dr. Eggers acknowledged the damage to Stewart's neck can cause chronic pain. Dr. Eggers conceded that after reviewing the surveillance video, he could not make a determination regarding Stewart's physical capabilities. He also testified he did not make medical decisions based on surveillance videos. Dr. Eggers testified some people who undergo a cervical fusion will not tolerate the jarring caused by operating heavy equipment. Concerning Stewart's ability to drive a long haul truck after sustaining this type of injury, Dr. Eggers stated as follows: "A neck may not tolerate a long haul. That's for sure."

Even though Dr. Eggers may have retreated somewhat from his opinion expressed in the March 31, 2010, medical record in which he stated Stewart was not capable of gainful employment, it is clear from his testimony he believed Stewart sustained a significant neck injury. Contrary to Perdue Farms' assertion, we conclude Dr. Eggers' opinions expressed in his March 31, 2010, note and his deposition and Dr. Barefoot's opinions constitute substantial evidence supporting the ALJ's determination Stewart is totally occupationally disabled. Further, we point out the record does not reflect Dr. Barefoot had

incomplete or inaccurate facts. The fact Dr. Barefoot did not review the surveillance video does not cause his assessment, based on Stewart's range of motion on the day he evaluated him, to be inaccurate or corrupt. The fact Dr. Barefoot did not review the surveillance video merely goes to the weight to be afforded Dr. Barefoot's testimony and not its admissibility.

After an examination of the record, the Board believes Cepero v. Fabricated Metals Corp., 132 S.W.3d 839 (Ky. 2004), is inapplicable in the case *sub judice*. Cepero, supra, was an unusual case involving not only a complete failure to disclose, but affirmative efforts by the employee to cover up a significant injury to the left knee only two and a half years prior to the alleged work-related injury to the same knee. The prior, non-work-related injury had left Cepero confined to a wheelchair for more than a month. The physician upon whom the ALJ relied in awarding benefits was not informed of this prior history by the employee and had no other apparent means of becoming so informed. Every physician who was adequately informed of this prior history opined Cepero's left knee impairment was not work-related but, instead, was attributable to the non-work-related injury two and a half years previous. We find nothing akin to Cepero in the case *sub judice.*

Similarly, we find no merit in Perdue Farm's argument that Stewart's testimony does not support the ALJ's determination he is totally disabled. Authority has long acknowledged that in making a determination granting or denying an award of permanent total disability, an ALJ has wide ranging discretion. Colwell v. Dresser Instrument Div., 217 S.W.3d 213, 219 (Ky. 2006); Seventh Street Road Tobacco Warehouse v. Stillwell, 550 S.W.2d 469 (Ky. 1976); Osborne v. Johnson, 432 S.W.2d 800 (Ky. 1968). Although an ALJ must necessarily consider the worker's medical condition when determining the extent of his occupational disability at a particular point in time, the ALJ is not required to rely upon the vocational opinions of either the medical experts or vocational experts in making his determination. Eaton Axle Corp. v. Nally, 688 S.W.2d 334 (Ky. 1985).

Kentucky case law has long established that a claimant's own testimony as to his capabilities and limitations may be relied upon by the fact-finder in making a determination as to his physical capacity to return to work following an injury. Hush v. Abrams, 584 S.W.2d 48 (Ky. 1979); Ruby Construction Company v. Curling, 451 S.W.2d 610 (Ky. 1970). So long as permanent impairment results from a work-related traumatic event, a claimant's

testimony alone concerning his inability to provide services to another in return for remuneration on a regular and sustained basis in a competitive economy qualifies as substantial evidence sufficient to support a finding by an ALJ of permanent total disability. *See* KRS 342.0011(11)(c) *and* (34); Transportation Cabinet v. Poe, 69 S.W.3d 60 (Ky. 2001); Commonwealth of Kentucky, Transportation Cabinet v. Guffey, 42 S.W.3d 618 (Ky. 2001).

In the case *sub judice*, as authority mandated, the ALJ weighed the fact that Stewart was forty-eight years old at the time of the hearing and had not completed the ninth grade. Ira A. Watson Department Store v. Hamilton, supra. As is his prerogative, the ALJ found, based on Stewart's credible testimony, that he was not capable of returning to work as a heavy equipment operator and as a long-haul truck driver. After considering Stewart's age, education, limited intellectual abilities, his previous work history as a heavy equipment operator and long-haul truck driver, and significant injuries to the cervical spine, lower back, and left shoulder which left residual pain and limitations, the ALJ concluded Stewart would be unable to find work consistently under normal employment conditions. Stewart's testimony constitutes substantial

evidence supporting the ALJ's determination he is totally and occupationally permanently disabled.

Dr. Barefoot's opinions and Dr. Eggers' opinions as well as Stewart's testimony constitute substantial evidence supporting the determination Stewart is permanently totally disabled. Therefore, because the outcome selected by the ALJ is supported by substantial evidence, we find no error in that determination. McNutt Construction/First General Services v. Scott, 40 S.W.3d 854, 859 (Ky. 2001).

We find no merit in Perdue Farms' assertion there is not substantial evidence to support the ALJ's determination Stewart sustained a permanent impairment as a result of the lower back injury. As pointed out by the ALJ, Dr. Eggers testified Stewart complained of lower back problems and as a result an MRI was performed. Although the MRI did not reflect a need for surgery, that fact does not establish Stewart did not have a permanent impairment as a result of the lower back injury. Dr. Eggers merely testified surgery was not necessary due to Stewart's lower back condition. In his December 6, 2011, report, Dr. Beck stated he did not believe Stewart retained an impairment as a result of the back injury. As pointed out by the ALJ, Dr. Beck's opinion does not foreclose the possibility Stewart

sustained a low back injury on September 2, 2009. Consequently, the ALJ concluded, based on Stewart's testimony and the opinions of Drs. Barefoot and Eggers, Stewart sustained a lower back injury which resulted in a 7% permanent impairment. The opinions of Drs. Barefoot and Eggers constitute substantial evidence supporting the ALJ's determination Stewart sustained a lower back injury in addition to the obvious cervical and left shoulder injuries.

Finally, we find no merit in Perdue Farms' assertion the ALJ's opinion does not contain a sufficient evidentiary basis for each legal conclusion. The ALJ is not required to explain why he chose to disregard the opinions of other physicians. The transcript of the hearing reflects the ALJ reviewed the surveillance video. In the opinion, award, and order, the ALJ provided his observations as to what the surveillance video revealed and determined the surveillance video had little or no significance. That is the ALJ's prerogative. The fact some of the physicians may have interpreted the surveillance video differently is something the ALJ may consider but is not compelled to rely upon. The ALJ may base his findings on what he saw on the surveillance video and this Board has no authority to usurp those findings. Likewise, the ALJ is not required to accept the physicians' interpretations of the surveillance video.

In addition, the ALJ's findings regarding Stewart's credibility are sufficient to apprise the parties of the basis for his decision. While authority generally establishes an ALJ must effectively set forth adequate findings of fact from the evidence in order to apprise the parties of the basis for his decision, he is not required to recount the record with line-by-line specificity nor engage in a detailed explanation of the minutia of his reasoning in reaching a particular result. Shields v. Pittsburgh and Midway Coal Mining Co., 634 S.W.2d 440 (Ky. App. 1982); Big Sandy Community Action Program v. Chaffins, 502 S.W.2d 526 (Ky. 1973). Contrary to Perdue Farms' assertion, the ALJ provided the evidentiary basis for his determination Stewart was totally occupationally disabled. It is clear the ALJ accepted the impairment rating of Dr. Barefoot and concluded based on the testimony of Stewart and Dr. Barefoot that Stewart did not retain the physical capacity to return to the type of work he was performing for Perdue Farms prior to the injury. Based on Stewart's credible testimony, the ALJ also determined Stewart was totally occupationally disabled and set out his reasons for so finding. Consequently, because the ALJ's determination Stewart is totally occupationally disabled is supported by both lay and medical evidence and the ALJ provided a sufficient explanation for

his reasons for finding Stewart to be totally occupationally disabled the decision of the ALJ must be affirmed.

Accordingly, the April 23, 2012, opinion, order, and award, and the May 18, 2012, order overruling on the petition for reconsideration of Hon. R. Scott Borders, Administrative Law Jude, are **AFFIRMED**.

ALVEY, CHAIRMAN, CONCURS.

SMITH, MEMBER, NOT SITTING.

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