

OPINION ENTERED: MAY 17, 2013

CLAIM NO. 201176292

ST. JOSEPH LONDON

PETITIONER

VS. APPEAL FROM HON. ALLISON EMERSON JONES,
ADMINISTRATIVE LAW JUDGE

DIANA LEWIS
and HON. ALLISON EMERSON JONES,
ADMINISTRATIVE LAW JUDGE

RESPONDENTS

**OPINION
AFFIRMING**

* * * * *

BEFORE: ALVEY, Chairman, and STIVERS, Member.

ALVEY, Chairman. St. Joseph London ("St. Joseph") seeks review of the Opinion, Award and Order rendered December 21, 2012 by Hon. Allison Emerson Jones, Administrative Law Judge ("ALJ") awarding Diana Lewis ("Lewis") temporary total disability ("TTD") benefits, permanent partial disability ("PPD") benefits and medical benefits for a right hip injury

sustained on August 31, 2011 after she fell at work while wearing a medical boot on her left foot to treat a previous, non-work-related injury. St. Joseph also seeks review of the January 29, 2013 Order on its petition for reconsideration.

The sole issue on appeal is whether the ALJ erred in finding St. Joseph failed to overcome the rebuttable presumption Lewis' workplace fall was unexplained, rather than idiopathic, and therefore arose out of her employment pursuant to Workman v. Wesley Manor Methodist Home, 462 S.W.2d 898 (Ky. App. 1971). St. Joseph argues the ALJ erred in interpreting the evidence, insisting Lewis fell due to stumbling because the medical boot she was wearing at the time of her fall. Therefore, the ALJ erred by failing to find the evidence rebutted the presumption described in Workman v. Wesley Manor Methodist Home, supra. Because we believe the ALJ performed the proper analysis, and her determination is supported by substantial evidence, we affirm.

Lewis filed a Form 101 alleging she injured her right hip when "going around a corner and slipped and fell" while working for St. Joseph. At the time of her accident, Lewis was working as an executive assistant earning \$19.60

hour. Following treatment, Lewis returned to her usual job and currently earns \$19.99 per hour.

The October 3, 2012 benefit review conference order and memorandum identified, in part, an idiopathic fall and course and scope of employment as contested issues. The parties stipulated Lewis sustained an alleged work-related injury on August 31, 2011, no TTD benefits or medical benefits were paid, and she returned to work on December 1, 2011 at a wage equal to or greater than her average weekly wage of \$800.01.

Lewis testified by deposition on June 21, 2012 and at the hearing held October 29, 2012. Lewis, a resident of East Bernstadt, Kentucky, was born on August 9, 1951 and is a high school graduate. Her work history consists of bookkeeping for several facilities. Lewis began working for Saint Joseph on July 14, 1986 as an administrative assistant. Eventually her title changed to executive assistant, but her duties have remained the same throughout her employment. Lewis has continued to work for Saint Joseph since her fall without restrictions.

Lewis broke her right hip on August 31, 2011. She first treated at St. Joseph emergency room, and the next day, Dr. Patrice Beliveau performed a total right hip replacement. Following her surgery, Lewis experienced

complications but was eventually discharged from the hospital and completed home health therapy. Lewis follows up with Dr. Beliveau on an annual basis. She did not work from August 31, 2011 through December 1, 2011 due to her injury, and then returned to her usual job with no work restrictions.

Lewis underwent a right knee replacement surgery in 2009. She also experienced a seizure approximately twenty years ago. She was subsequently placed on a regimen of medication, and has not experienced another seizure since that time. Lewis confirmed she is receiving treatment in the form of anti-inflammatory medication from a rheumatologist for osteoarthritis in her knee and hands. She also takes medication for high blood pressure. Lewis denied any prior right hip problems or history of falling or fainting.

At the deposition, Lewis testified her fall occurred sometime after lunch. She was leaving the department to go to the gift shop to get some snacks. Lewis stated she "was going around the corner" to tell another person she was leaving. Lewis stated as follows regarding what caused her to fall:

Q: Okay. And you said you were turning a corner. Were you turning a corner to go down a hallway, or to walk

into a door, or what? Tell me how the setup is because I've never been there.

. . .

A: Okay. My desk, our desks, the main desk, is out in the open.

Q: Okay.

A: And the executive assistant to the president has a little corner there that's set off from the public kind of.

Q: Okay.

A: And I was going around that corner to tell her I was going out of the department.

A: And do you remember how you fell in terms of how your body fell to the ground?

A: My entire weight just went down on that hip.

Q: Okay. And this is on your right side?

A: Right. On the right hip.

Q: Okay. So did you experience some symptoms and then you fell, or did you fall and land on your hip?

A: I fell and landed on my hip.

Q: Okay. What type of flooring is there in the area where you fell?

A: Carpet.

Q: Carpet, okay. Were there any rugs or anything like that?

A: No.

Q: What type of shoes were you wearing that day?

A: They were Merrell's. They were--I can't describe them . . . They were slip-ons, but they were--you know, they had the back in them.

. . . .

Q: And the corner that you were turning, the corner area was to your right. Is that correct? When you were turning, were you turning to the right?

A: To the left.

Q: To the left, okay. So the wall area beside of you that was sticking out was on your left side?

A: Yes.

Q: Were you wearing shoes on both feet?

A: No. I had a boot on my left foot. I had a broken bone in that foot and I had that boot on my foot.

Q: And when you say "boot", you're talking about a medical--like a moon boot. Right? Not like a--not any type of like dress boot or a--

A: Yes, a medical boot.

. . . .

Q: Do you know how you fell when you fell in terms of--did you hit your leg on something, or did you trip?

A: No. It felt like my feet just stuck and then I just went down on that hip.

Q: You're saying like your feet just stuck, like in the carpet?

A: Uh-huh (affirmative response).

At the hearing, Lewis testified as follows regarding what caused her to fall:

Q: Did you hit something slick in the floor or a slick spot on the floor or . . .

A: No, it was carpet.

Q: It was the carpet? That caused you to fall as far as you know?

A: I can honestly say I don't know what caused me to fall. It happened so fast.

. . . .

Q: I believe you testified earlier--you mentioned something about a carpet. Do you know how you fell?

A: I don't. I was just going around the corner and was going to the left and just as I got to the corner I just--it just happened so quick that I just went all down on my left side.

. . .

Q: So, do you know whether or not your foot got stuck in the carpet or . . .

A: I don't. I don't know.

Lewis testified the medical boot she was wearing on her left foot was for a fractured bone she sustained previously while in her home. Dr. Ball treated her left

foot and prescribed the walking boot. Lewis denied using crutches. Lewis testified she did not miss any work due to her left foot injury and Dr. Ball had released her to return to regular employment. Lewis stated she had been wearing this boot for approximately four to six weeks and denied it made walking difficult. Lewis described the boot as extending just above the ankle with Velcro fasteners across the foot. She explained although the boot held her left foot tight, she was able to flex her foot normally.

Lewis and St. Joseph filed the medical records from St. Joseph London which indicate she was admitted on August 31, 2011 by Dr. Adolfo Pena-Salazar. The record states "Patient claims she was turning a corner and has a boot on her foot secondary to fractures. Her foot got caught up and she fell directly on her ___ hip." Lewis was diagnosed with right hip fracture; status post fall, hypotensive episode; hyponatremia due to hypochlorothiazide; chest pain; history of hypertension; hypothyroidism; and seizure disorder. A right hip arthroplasty was performed the following day.

Lewis also submitted the treatment records of Dr. Beliveau of Premier Orthopedic and Sports Medicine spanning the period from September 2011 through February 2012. The records indicate she improved with physical therapy. On

November 11, 2011, Dr. Beliveau noted Lewis was doing well and ambulating without assistive devices or a limp. Dr. Beliveau recommended Lewis return to work the following week without restrictions.

Both parties submitted medical records from Premier Orthopedic and Sports Medicine pre-dating the August 2011 fall indicating Lewis received treatment for right knee pain from 2006 through 2008. On August 8, 2011, she was referred to Dr. Collin Ball by Dr. Ann Douglas for left foot pain. He diagnosed sesamoid fractures, in addition to pain and edema of the left foot. He advised Lewis "to go into a flat sole surgical shoe/Darco shoe to decrease the propulsive push off pressures of the bony fractures area to allow it to heal."

In a September 8, 2011 report, Dr. Daniel Wolens, who performed a records review, noted Lewis' low blood pressure recorded at the emergency room, but stated he was unable to determine whether her hypertension pre-dated or post-dated the fall. He noted the medical records did not indicate whether hyponatremia or hypokalemia caused the fall. He stated Lewis did not have an underlying bone disorder or lytic process causing her hip fracture. He found no indication of a cardiac arrest causing the fall. With regard to her boot, Dr. Wolens stated as follows:

The records of Drs. Salazer[sic], and the patient herself, however, both indicate the cause of this fall being unassociated with any specific aspect of the workplace. Ms. Lewis is reported to have suffered a recent metatarsal fracture of the foot, for which she had been placed in a cast boot. Both Drs. Salazer[sic] and Ms. Lewis indicate that this individual had essentially stumbled as a result of the cast boot, causing her to fall.

. . . .

In summary, [Lewis'] fall and subsequent right hip fracture is described by both Dr. Salazer[sic] and Dr. Bellavue [sic] to have occurred as a result of wearing a cast boot for treatment of her metatarsal fractures. There is, otherwise, no description in the record of there being a unique exposure at work to have caused that fall."

Lewis submitted Dr. Robert Johnson's June 14, 2012, Form 107 medical report. He noted Lewis reported "she was going around a corner at work where she slipped and fell. It felt like the right foot caught on the carpet and she fell to the right side landing on her right hip." Dr. Johnson opined Lewis' injuries were the cause of her complaints. He assigned a 20% impairment rating pursuant to the American Medical Association, Guides to Evaluation of Permanent Impairment, Fifth Edition ("AMA Guides"). Dr. Johnson noted Lewis had reached medical maximum improvement

("MMI"). He also found Lewis retained the capacity to return to her former work with various restrictions.

In his August 21, 2012 medical report, Dr. Daniel Primm noted:

On 8/31/11, Ms. Lewis states she was in the Administration office. As she got up and was moving around a desk (she is not exactly sure what happened), she states she fell, striking her right side. She indicates that, at that time, she was actually wearing a fracture boot for a fracture in her left foot.

Dr. Primm diagnosed a displaced right hip fracture and status post right hip arthroplasty with an excellent clinical result due to her fall. He opined Lewis attained MMI when she was released by Dr. Beliveau. Dr. Primm assigned a 15% impairment rating pursuant to the AMA Guides. Dr. Primm found restrictions were not necessary for her job with St. Joseph and he recommended annual follow-up office visits.

In the opinion rendered December 21, 2012, the ALJ made the following findings of fact and conclusions of law regarding whether the fall was unexplained, and thus, work-related:

**A. Course & Scope of Employment/
Idiopathic Falls**

1. Principle of Law.

Kentucky case law has held that "when an employee during the course of his work suffers a fall by reason of some cause that cannot be determined, there is a natural inference that the work had something to do with it, in the sense that had he not been at work he probably would not have fallen." *Workman v. Wesley Manor Methodist Home*, 462 S.W.2d 898 (Ky. 1971). From a procedural standpoint, "in the absence of evidence sufficient to cast substantial doubt in the mind of a reasonable man that the presumption is correct the employee is entitled to its benefit as a matter of law." *Id.* Although, if the defendant employer can establish by sufficient evidence that the work was not a contributing cause and the fall was a result of a personal or idiopathic cause, "then the rebuttable presumption is reduced to a permissible inference and the board is free either to find or decline to find that it was." *Id.* Idiopathic or personal factors resulting in harm include pre-existing conditions, physical weaknesses, or personal behavior. *Vacuum Depositing, Inc. v. Dever*, 285 S.W.3d 730, 733 (Ky. 2009). Where an employment and personal cause combine to produce harm, the law does not weigh the importance of the two causes but considers whether the employment was a contributing factor. *Jefferson County Public Schools/ Jefferson County Bd. of Educ. v. Stephens*, 208 S.W.3d 862, 866 (Ky. 2006).

In *Vacuum Depositing, Inc.*, the Kentucky Supreme Court considered a case remarkably similar to the one at hand. Dever, the claimant, testified that she fell while walking towards a vending machine in the break room. She testified that she did not know why she

fell, but there was evidence that she was "clumsy" by nature and that she was wearing two-inch high heels at the time of her fall. The employer asserted that the fall was idiopathic. It maintained that evidence that the claimant was clumsy and wearing shoes with high heels rebutted the *Workman* presumption. The ALJ ruled in favor of the Defendant Employer upon finding that the claimant had no idea how she fell, was clumsy, and was wearing high heels at the time of the accident. The Court determined that "a work-related fall occurs if the worker slips, trips, or falls due to causes such as a substance or obstacle on the floor of the workplace or an irregularity in the floor. When the cause of a workplace fall is unexplained, the fall is presumed to be work-related under *Workman*." *Id.* at 733. The Court then determined that the ALJ erred in finding that the fall was idiopathic: "*we are convinced that evidence the claimant was clumsy and wearing high heels was not sufficient to prove that the cause of her fall was idiopathic. The evidence did not overcome the presumption that the fall was unexplained and, thus, that it was work-related.*" (emphasis added).

2. Findings of Fact & Conclusions of Law

The ALJ finds that St. Joseph has failed to overcome the presumption that the fall was unexplained, and thus, work-related. As such, the ALJ finds that Lewis' work at least contributed to her fall and was not solely the result of personal factors.

3. Evidentiary Basis & Analysis

In so finding, the ALJ relies on Lewis' testimony. Lewis testified that at the time of her fall she was on the work premises and was going to inform another employee with whom she worked with that she was going to be leaving the department for a few minutes. Lewis testified that she did not know why she fell, but suspects that possibly her foot caught on the carpet.

The ALJ observes that there was no definitive medical explanation provided for the fall and that at most the doctors in the records ruled out other contributory factors and speculated that perhaps the boot caused the fall. None have opined with medical probability that the boot was the sole cause of the fall and St. Joseph has not produced any witnesses that saw the fall to testify as to its cause. Thus, the ALJ concludes that Lewis met the initial burden of demonstrating that the fall was unexplained entitling her to the rebuttable presumption that the fall was work-related.

The only evidence that St. Joseph has adduced to rebut this presumption is that Lewis was wearing a boot cast when she fell. The ALJ finds this to be much the same argument advanced by the employer in *Vacuum Depositing Inc.* While a boot cast is arguably more dangerous than a pair of two-inch high heels, the ALJ does not believe this fact, standing alone, is substantial evidence to overcome the rebuttable presumption, especially in light of the facts presented by this claim. Lewis testified that she had been wearing the boot cast for several weeks, and therefore, was well practiced walking with it. Additionally, Lewis testified

that she had been released to return to work with the boot cast on her foot. Had Lewis' treating physician deemed the boot cast unsafe for work, he surely would not have released her. Moreover, there was no evidence that Lewis had trouble walking in the boot cast or had fallen at home or outside of the workplace during the prior four weeks that she had been wearing it. She testified that she was able to flex her foot in the cast and that she had pretty much gotten used to walking in it. Thus, the ALJ finds that while the boot cast may have contributed to the fall, at most it was merely a contributing factor. See *Jefferson County Public Schools/Jefferson County Bd. of Educ.*, 208 S.W.3d at 866.

Moreover, St. Joseph has failed to produce any evidence that proves to the ALJ's satisfaction that the boot cast actually did contribute to the fall. While Dr. Wolens indicated that he thought the boot cast caused the fall, he appears to have arrived at this conclusion more out of process of elimination than through an examination of the mechanics of the fall. ("There is no description in the record of there being a unique exposure at work to have caused the fall."). In other words, much like *Vacuum Depositing*, there is simply speculation that the boot cast, like the high heels, caused the fall. Such sheer speculation is insufficient to overcome the rebuttable presumption that the work environment contributed to the fall.

The ALJ awarded TTD benefits, PPD benefits based upon a 15% impairment rating, and medical expenses. The ALJ found Lewis is eligible for the two multiplier pursuant to KRS

342.730(1)(c)2 if her employment ceases sometime in the future for reasons related to her work injury because she returned to her prior job at an equal or greater wage.

St. Joseph filed a petition for reconsideration arguing the ALJ's decision failed to discuss the August 31, 2011 emergency room record which it asserted provides the best evidence regarding causation, and requested additional findings of fact on this issue. Likewise, it challenged the ALJ's determination it failed to produce any evidence to establish the boot contributed to the fall by pointing to the history provided by Lewis noted in the emergency room, and requested additional findings. St. Joseph also requested the ALJ correct a typographical error. St. Joseph did not allege any patent errors regarding the ALJ's findings pertaining to Dr. Wolen's medical records review report.

In the January 29, 2013 order on reconsideration, the ALJ granted St. Joseph's request for additional findings of fact and correction of typographical errors, and denied the petition in all other regards. The ALJ made the following additional findings of fact:

While the ALJ did not specifically mention the emergency room record, the ALJ did consider the evidence in its entirety prior to rendering the above findings of fact and conclusions of

law. The relevant portion of the record states simply: "Patient claims she was turning at a corner and has a boot on her foot secondary to fractures. Her foot got caught up and she fell directly on her _____ hip."

This is essentially the same version of events that Plaintiff testified to during her deposition and at the final hearing. Lewis testified that she thinks that her foot might have caught on the carpet, but that she is not certain exactly what caused her to fall. Lewis explained: "I was just going around the corner and was going to the left and just as I got to the corner I just—it just happened so quick that I just went all down on my left side." She elaborated in her deposition testifying: "it felt like my feet just stuck and then I just went down on that hip. Q: You're saying like your feet just stuck, like in the carpet? A: Uh-huh (affirmative response)."

This portion of the ER record relied on by Defendant does not suggest that the sole cause of the fall was the medical boot. To the contrary, it suggests at most that the boot might have caught on the carpet and caused the fall. Again, the ALJ finds the evidence in the record insufficient to establish that the boot cast caused the fall. At most, it suggests that the boot cast may have contributed to it. However, the exact cause of the fall remains highly debatable. Much like *Vacuum Depositing*, there is simply speculation that the boot cast, like the high heels, caused the fall. Such sheer speculation is insufficient to overcome the rebuttable presumption that the work environment contributed to the fall. Thus, at most, the

evidence suggests that the boot cast and the work environment (the carpet) both contributed to the fall. See *Jefferson County Public Schools/ Jefferson County Bd. of Educ. v. Stephens*, 208 S.W.3d 862, 866 (Ky. 2006) (“Where an employment and personal cause combine to produce harm, the law does not weigh the importance of the two causes but considers whether the employment was a contributing factor.”). Since the law does not weigh which was the primary cause, the Defendant Employer remains liable.

On appeal, St. Joseph argues the ALJ erred in determining its evidence did not overcome the presumption of compensability under Workman v. Wesley Manor Methodist Home, supra. It relies upon Lewis’ account of the fall noted in the August 31, 2011 emergency room record. St. Joseph insists “the only logical conclusion to be drawn from the history [Lewis] provided was that she fell when she caught her foot as a result of wearing an orthopedic boot.”

St. Joseph also takes issue with several findings of fact made by the ALJ. It argues the ALJ’s finding in the December 21, 2012 opinion Lewis “suspects that possibly her foot caught on the carpet” and in the order on reconsideration she “thinks that her foot might have caught on the carpet . . .” are both erroneous. Although Lewis initially testified her foot caught the carpet, St. Joseph

argues she testified at the hearing she did not know what caused her fall.

St. Joseph argues Dr. Wolen's medical records review overcame the presumption Lewis' fall arose out of her employment. St. Joseph noted he concluded Lewis fell because of the cast boot she was wearing. St. Joseph argues the ALJ erroneously characterized Dr. Wolen's report as speculative and rejected his unrebutted medical opinion.

Finally, St. Joseph argues the ALJ erred in determining the fall was unexplained based upon a subsequent contradictory finding. In the December 21, 2012 opinion, the ALJ determined the walking boot was a "contributing" factor to Lewis' fall. St. Joseph argues this finding required the ALJ "to find that the presumption that the fall was unexplained had been rebutted. Consequently, the ALJ should have analyzed the case pursuant to the Supreme Court's holding in Vacuum Depositing, Inc. v. Dever, 285 S.W.3d 730 (Ky. 2009)." Therefore, St. Joseph requests the Board vacate the ALJ's determination it failed to rebut the presumption of compensability pursuant to Workman v. Wesley Manor Methodist Home, supra, and remand for additional findings regarding whether the evidence supported a finding of compensability pursuant to the positional risk doctrine.

KRS 342.0011(1) defines "injury" as a work-related traumatic event "arising out of and in the course of employment" that is the proximate cause producing a harmful change in the human organism. It has long been established that "in the course of employment" refers to the time, place, and circumstances of an accident, while "arising out of" refers to the cause or source of the accident. AK Steele Corp. vs. Adkins, 253 S.W.3d 59 (Ky. 2008).

Where an employee sustains an injury at work due to a purely individual cause, i.e., such as an internal weakness, and the work does not contribute independently to the effects of the resulting harmful change, the injury as a matter of law is idiopathic in nature and, therefore, not compensable. Workman vs. Wesley Manor Methodist Home, supra. By contrast, an unexplained fall is exactly what its designation purports that which cannot be identified sufficiently with any thoroughness of detail. Salyers vs. G. & P. Coal Co., 467 S.W.2d 115 (Ky. 1971) and Coomes vs. Robertson Lumber Co., 427 S.W.2d 809 (Ky. 1968).

Professor Larson distinguishes an idiopathic fall from an unexplained fall, noting the former is the result of a purely personal cause and the latter is the result of an unknown cause. Larsons' Workers' Compensation Law, §

9.01[1]. Stated otherwise, the risk in idiopathic falls is deemed personal to the employee, whereas the risk in unexplained falls is deemed neutral. Id.

In Workman vs. Wesley Manor Methodist Home, 462 S.W.2d at 900, the Court acknowledged there is a rebuttable presumption an unexplained fall which occurs during the course of employment is work-related. In the absence of such rebutting evidence, the ALJ cannot find against the claimant on the issue of whether the accident arose out of the employment. However, the Court found the rebuttable presumption had been reduced to a permissible inference when the employer presented enough evidence to establish the employee's fall was not unexplained, but, rather, resulted solely from a prior, non-work-related back condition. Id. at 901-902. Consequently, the Court held the evidence did not compel a finding the employment was a causative factor in the employee's injuries. Rather, the ALJ was free either to decide in the claimant's favor or to remain unpersuaded claimant's work was a causative factor in precipitating the injury. Id.

In Jefferson County Public Schools/Jefferson County Board of Education v. Stephens, 208 S.W.3d 862, 866 (Ky. 2006), the Court upheld the ALJ's determination the claimant sustained a work-related injury when she fell

while walking from a carpeted surface to a tile floor. Evidence was introduced indicating Stephens might have experienced dizziness prior to her fall. The history recorded by the EMS and hospital personnel indicated Stephens had experienced some dizziness, saw spots before her eyes, and felt weak just prior to the fall. She had also experienced some episodes of blackout spells in the remote past, but not within nine years prior to the incident. The ALJ determined she was not continuing to experience any such dizziness. In light of the conflicting evidence, the Court stated as follows:

Although one naturally infers that a fall in the workplace has something to do with the employment, proving that it arose out of the employment can be problematic when the reason that it occurred is unexplained. Workman v. Wesley Manor Methodist Home, supra, stands for the principle that an unexplained workplace fall is presumed to arise out of the employment unless the presumption is rebutted. The court determined subsequently in Indian Leasing Company v. Turbyfill, 577 S.W.2d 24 (Ky. App.1978), that even an idiopathic fall may be compensable if work placed the individual in a position that increased its dangerous effects.

We explained in Magic Coal Co. v. Fox, 19 S.W.3d 88, 95 (Ky. 2000), that rebuttable presumptions are governed by KRE 301. Such a presumption shifts the burden of going forward with evidence to rebut or meet it to the party

against whom it is directed, but it does not shift the burden of proof (i.e., the risk of nonpersuasion) from the party upon whom it was originally cast. If a presumption is not rebutted, the party with the burden of proof prevails on that issue by virtue of the presumption. If a presumption is rebutted, it is reduced to a permissible inference. The ALJ must then weigh the conflicting evidence to decide which is most persuasive.

Because a fact must be proved with substantial evidence, a rebuttable presumption must be met with substantial evidence. Therefore, an employer asserting that a workplace fall was idiopathic must meet the presumption with substantial evidence to that effect. If the employer does so, the ALJ must weigh the conflicting evidence, including the permissible inference that a workplace fall arises out of the employment. The burden of persuasion remains on the worker.

Id. at 866-867

The Court determined Stephens was entitled to a rebuttable presumption the fall arose from her employment. The Court noted people in general do not fall when walking from a carpeted surface onto tile and the claimant offered no reason for losing her footing. Likewise, there was no evidence the claimant tripped, fainted or was unconscious when she fell, nor was there evidence of an obvious risk. Id. at 867. The Court then found the employer produced substantial evidence to rebut the presumption, and

therefore, the presumption was reduced to a permissible inference. Id. The ALJ found credible the claimant's testimony she simply fell when stepping from the carpet to the smoother surface. Thus, the ALJ's conclusion the fall was unexplained and not idiopathic was supported by the claimant's testimony which constituted substantial evidence. Id. at 868.

More recently in Vacuum Depositing, Inc. v. Dever, 285 S.W.3d 730, 734 (Ky. 2009), the Kentucky Supreme Court held "that evidence the claimant was clumsy and wearing high heels was not sufficient to prove that the cause of her fall was idiopathic. The evidence did not overcome the presumption that the fall was unexplained and, thus, that it was work-related." Dever testified she slipped and fell in the break room, but did not know why. The claimant was wearing boots with two inch heels, and denied being dizzy or feeling any pain. Another witness testified the claimant reported being clumsy. Id. at 731-732. The ALJ determined substantial evidence existed to rebut the Workman presumption of work-relatedness. Therefore, the presumption was reduced to a permissible inference, and the weight of reliable evidence established the fall did not arise from claimant's employment. Id. at 732. The Board

reversed and remanded, and the Kentucky Court of Appeals affirmed. In affirming, the Court stated as follows:

To summarize, a work-related fall occurs if the worker slips, trips, or falls due to causes such as a substance or obstacle on the floor of the workplace or an irregularity in the floor. When the cause of a workplace fall is unexplained, the fall is presumed to be work-related under Workman. Unexplained falls divide ultimately into two categories: 1.) those the employer has shown to result from a personal or idiopathic cause but which may be compensable under the positional risk doctrine; and 2.) those that remain unexplained and entitled to a presumption of work-relatedness.

The claimant alleged an unexplained fall but, as in Workman, the ALJ found that the employer rebutted the presumption of work-relatedness and showed the fall to be personal or idiopathic. The employer asserts that the Board erred by substituting its judgment for the ALJ's and, thus, that the Court of Appeals erred by affirming the Board. We disagree.

The ALJ characterized the claimant as "not an entirely credible witness" but determined that a workplace fall occurred although its cause was idiopathic. The fact that the claimant's work did nothing to cause her fall was immaterial under Workman. The record contained no evidence that she suffered from a pre-existing disease or physical weakness that caused her to fall and no evidence that she was engaged in conduct when she fell that would take the injury outside Chapter 342. Nor did the record contain evidence that her footwear was

inherently dangerous and inappropriate for work in the employer's offices. Like the Board and the Court of Appeals, we are convinced that evidence the claimant was clumsy and wearing high heels was not sufficient to prove that the cause of her fall was idiopathic. The evidence did not overcome the presumption that the fall was unexplained and, thus, that it was work-related.

Id. at 733-734

Here the ALJ engaged in the proper analysis and supported her determinations in detail when ultimately concluding St. Joseph failed to overcome the rebuttable presumption Lewis' fall was unexplained and thus work-related. We first note the ALJ correctly found this claim fell within the purview of an unexplained fall thereby entitling her to the rebuttable presumption of work-relatedness under Workman vs. Wesley Manor Methodist Home, supra. St. Joseph does not dispute this, and noted in its brief before the ALJ it bore the burden rebutting the presumption of compensability.

We find the ALJ did not err in finding St. Joseph failed to rebut the presumption the fall was unexplained and therefore work-related. In rendering a decision, KRS 342.285 grants the ALJ as fact-finder the sole discretion to determine the quality, character, and substance of evidence. AK Steel Corp. v. Adkins, 253 S.W.3d 59 (Ky.

2008). 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 opposing 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, 16 (Ky. 1977). Although a party may note evidence supporting a different outcome than reached by the ALJ, such evidence is not an adequate basis to reverse on appeal. McCloud v. Beth-Elkhorn Corp., 514 S.W.2d 46 (Ky. 1974).

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 reasonable inferences that otherwise could have been drawn from the evidence. Whittaker v. Rowland, 998 S.W.2d 479 (Ky. 1999). It is well established, an ALJ is vested with wide ranging discretion. Colwell v. Dresser Instrument Div., 217 S.W.3d 213 (Ky. 2006); Seventh Street Road Tobacco Warehouse v. Stillwell, 550 S.W.2d 469 (Ky. 1976). So long as the ALJ's rulings are reasonable under the evidence, they may not be disturbed on appeal. Special Fund v. Francis, 708 S.W.2d 641, 643 (Ky. 1986).

The ALJ clearly relied upon Lewis' testimony in rendering her decision. The ALJ found Lewis' testimony established she did not know why she fell, but possibly caught her foot in the carpet. The ALJ also noted Lewis had worn the boot for several weeks prior to the fall, and was therefore practiced in walking with it. Lewis had been released to work by her physician regarding her foot injury, and she could flex her foot in the boot. The ALJ also noted evidence did not establish Lewis had experienced difficulty walking with the boot, or that she had fallen at any time during the weeks prior to August 31, 2011. The ALJ primarily relied upon Vacuum Depositing, Inc. v. Dever, supra, and its finding the evidence showed the claimant was clumsy and wore high heels was insufficient to prove her fall was idiopathic and did not overcome the presumption the fall was unexplained. We find the ALJ's reliance on Vacuum Depositing, Inc. v. Dever, supra, was proper.

We find unpersuasive St. Joseph's argument the ALJ erroneously characterized Dr. Wolen's report as speculative, and erred in rejecting his unrebutted medical opinion the fall was due to wearing the boot. The ALJ rejected Dr. Wolen's opinion explaining he arrived at this conclusion through the process of elimination rather than based upon an examination of the mechanics of the fall. In

support of her conclusion, the ALJ quoted Dr. Wolen's statement, "There is no description in the record of there being a unique exposure at work to have caused the fall." The ALJ determined this amounted merely to speculation regarding causation and was insufficient to overcome the rebuttable presumption the work environment contributed to the fall.

It is well established the 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. An ALJ may even reject unrebutted medical testimony, so long as he or she adequately sets forth their rationale for doing so. See Commonwealth v. Workers' Compensation Board of Kentucky, 697 S.W.2d 540 (Ky. App. 1985); Collins v. Castleton Farms, Inc., 560 S.W.2d 830 (Ky. App. 1977). Here, the ALJ wholly rejected Dr. Wolen's opinion and adequately set forth her rationale for doing so, and this determination will not be disturbed.

Upon request by St. Joseph, the ALJ provided additional findings of fact in the order on reconsideration specifically regarding the August 31, 2011 St. Joseph emergency room record. The ALJ found the history noted in the emergency room record consistent with Lewis' testimony.

She also found the emergency room record did not establish the boot solely caused Lewis to fall, but at most suggested it might have caught the carpet. In light of the record, the ALJ reiterated the exact cause of Lewis' fall is uncertain or unexplained. The ALJ noted the similarities to Dever, stating there is simply speculation as to whether the boot caused the fall, and is insufficient to overcome the rebuttable presumption that the work environment contributed to the fall.

Substantial evidence of record exists to support the ALJ's determination. In light of the opinion and order on reconsideration, we find the ALJ engaged in the proper analysis in determining whether Lewis' fall was unexplained or idiopathic, considered the entirety of the record.

We find St. Joseph's argument the ALJ erred in interpreting the evidence in determining whether Lewis' fall was idiopathic or unexplained to be without merit. It is the ALJ's duty as fact-finder to determine the quality, character, and substance of evidence. AK Steel Corp. v. Adkins, supra. The two sentence history found in the August 31, 2011 emergency record and so heavily relied upon by St. Joseph is equivocal at best regarding causation. It was the prerogative of the ALJ in determining what

weight to afford the record, and in finding it consistent with Lewis' testimony in the order on reconsideration.

Accordingly, the decision rendered December 21, 2012 and the January 29, 2013 order ruling on the petition for reconsideration by Hon. Allison Emerson Jones, Administrative Law Judge, are hereby **AFFIRMED**.

STIVERS, MEMBER, CONCURS.

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