

Commonwealth of Kentucky
Workers' Compensation Board

OPINION ENTERED: April 29, 2022

CLAIM NO. 201785197

AMAZON

PETITIONER

VS.

APPEAL FROM HON. AMANDA PERKINS,
ADMINISTRATIVE LAW JUDGE

INGRID BOWMAN
and HON. AMANDA PERKINS,
ADMINISTRATIVE LAW JUDGE

RESPONDENTS

OPINION
AFFIRMING

* * * * *

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

STIVERS, Member. Amazon appeals from the January 5, 2022, Opinion, Award, and Order of Hon. Amanda Perkins, Administrative Law Judge (“ALJ”) awarding Ingrid Bowman (“Bowman”) permanent total disability (“PTD”) benefits and medical benefits for a work-related low back condition. No Petition for Reconsideration was filed.

On appeal, Amazon asserts the award of PTD benefits is not supported by substantial evidence. Amazon also argues that Dr. Justin Kruer did not assign permanent work restrictions for Bowman. Finally, Amazon asserts the ALJ erred in relying upon Bowman's assessment of her ability to return to work.

BACKGROUND

The Form 101 alleges Bowman sustained work-related injuries to her "lumbar and/or sacral vertebrae" on April 6, 2017, in the following manner: "Plaintiff was working on a stack of boxes that was over 6 feet high and was testing the weight of one of the boxes. She pulled the box toward her and felt a sharp pain in her back."

Several medical records of Dr. Kruer were filed into evidence by the parties. Pertinent to the issues on appeal is Dr. Kruer's February 7, 2019, report which Amazon introduced. In the report, Dr. Kruer noted Bowman developed "immediate lower back pain" after the April 6, 2017, work injury. Dr. Kruer opined Bowman had yet to reach maximum medical improvement ("MMI"). He assessed an 8% whole person impairment rating pursuant to the 5th Edition of the American Medical Association, Guides to the Evaluation of Permanent Impairment ("AMA Guides"). Concerning restrictions, he provided the following:

As stated above, Ms. Bowman sustained a myocardial infarction during the time of treatment for the injury sustained at work April 6, 2017. And restrictions necessary would have to be coordinated along with her cardiologist to ensure both her safety and the safety of her coworkers.

Bowman filed Dr. Kruer's May 8, 2019, Form 107. After examining Bowman, Dr. Kruer diagnosed the following: lumbar disc degeneration, lumbar facet arthropathy, lumbar foraminal stenosis, lumbar sprain/strain, and left lower extremity radiculopathy. Dr. Kruer assessed a 12% whole person impairment rating pursuant to the AMA Guides and opined that the work event is the cause of Bowman's impairment. Dr. Kruer wrote "no" regarding when MMI was reached. He imposed the following permanent restrictions: no lifting greater than twenty pounds, no pushing/pulling greater than twenty-five pounds, no excessive standing, and must be able to change positions. Dr. Kruer also opined Bowman does not retain the physical capacity to return to the type of work she was performing at the time of the injury because of pain.

Bowman was deposed on February 14, 2020. She was born on September 16, 1955, graduated from high school, and attended community college but did not obtain a college degree. She believed she obtained some vocational training in the past as a "stock and tool accountant" and "automotive repair specialist." Bowman's employment history includes bartending and waitressing which entailed standing, walking, and carrying. She also worked as a cashier at 7-Eleven. Bowman also worked at Maida Development Company where she ran the furnaces and as a cashier at Walgreens. Through a temporary agency, she worked at a company called Meritor where she assembled truck parts and eventually drove a forklift moving the parts for assembly from the back of the warehouse to the front.

When Bowman first started working at Amazon, she was "[b]uilding pallets, six-foot pallets, wrapping them, sometimes loading a truck, sometimes

unloading a truck.” Once she was hired full-time, Amazon moved her to different departments. She explained as follows:

A: I was still working on the receiving dock for a while. Then I went to – what is that department called? Well, you stay up – you stand up on a platform up on top and you move the packages. You remove the ones that are broken, the other ones go and then they fall down, then you have to separate them in the bottom. And sometimes still unloading trucks. They just moved us around.

Q: Okay. And did you have any other positions when you were at Amazon?

A: I wouldn’t say supervisory. There’s a step below supervisor or line – line manager? Something like that. In charge of the lines and the people who worked on the lines.

After Bowman was injured at Amazon, she attempted to continue working:

Q: Okay. And were you working in the same area, in tech and mech, doing the same job at that time?

A: No, I was doing a lighter job.

Q: A lighter job?

A: Instead of pulling pallets down, we had a [sic] area where we laid it – where I think parts are laid flat and you have to match the parts to the paperwork. But it was a lot of bending over and that didn’t work so well either. It hurt.

Bowman described her current back symptoms:

A: I’m always sitting – all my weight is shifted to my right side. I use a cane now because sometimes my knee on my left side buckles and – okay. Here lately, occasionally on my right side. I believe it’s because the right side has to take so much off my left side. I have a heck of a time walking up and down stairs. I can’t lift

much. If I go to the grocery store, but three bags of groceries, I have to make three – two or three times up and down the steps because I can't carry the weight.

I couldn't pick up a baby because I was afraid I was going to drop him. I can't play with my younger granddaughter like I did with my older grandkids. I can't even chase her around the – what do you call it? – playground. I limp around after her with my cane.

Q: And is your low back hurting today?

A: Yes.

Q: Describe for me where the pain is located in your low back.

A: Can I show you?

Q: Yes.

A: That might be easier.

Okay. It's – mainly it's right in here. And then since I'm worrying on this – since I'm always putting the weight on this side, every now and then it goes across and it – it just sometimes moves to the right side. I mean, not all of it, but like if my knee buckles because all of a sudden – how could you say? It's not a sharp pain, it's like – it goes slow.

Q: Okay.

A: But it goes down to my knee on the right side.

Q: And I'll just –

A: And I'm always walking crooked anymore.

Q: And I'll just try to –

A: And to my right side.

Q: Okay. – describe what you were indicating so the court reporter can get it down. But it looked like you

were indicating right above your left buttock area in your low back; is that and accurate –

A: That's the main area.

Q: And then sometimes it shoots across your back, meaning to the right side of your back?

A: Yeah, it's when I put too much weight on it, it's like – I – in my apartment, the laundry's downstairs. Right here lately – you know, sometimes my son helps me, sometimes my daughter. But if I put – fill up a bag with dirty clothes, I basically have to drag it down the stairs. And it's a heck of a problem trying to get it back up after it dries.

Q: I can imagine. If you had to rate the pain in your low back on a scale of one to ten, with ten being the worst, how would you rate it today?

A: Right now?

Q: Yes, ma'am.

A: I'd probably say seven and a half, eight, since I'm sitting down leaning to my right.

Bowman was not working at the time of her deposition, and she did not believe she was able to perform her pre-injury job at Amazon. She believed her low back condition had worsened.

Bowman also testified at the November 10, 2021, hearing. She recounted the specific tasks she was performing at the time of her low back injury:

A: We were, well, I was working on returns from people that were items [sic] were damaged or they got the wrong thing. We had to check if they were resellable or if they were trash, whatever. If they were resellable, we had to repackage them, make sure all the paperwork and everything is in there.

We work with products anywhere from 5, 10 pounds to 90 or some of them even over 100. When it's over 50

pounds we have a team lift. The thing is, when we team lift they help us, we help each other put it up on the line. When it, afterwards we're on our own. It doesn't depend, doesn't matter if it's still 100 pounds, we still have to check it, we have to take it out of the box or rebox it. We are on quotas, so the person that's next to you that helps you put it on the line still have to make their quota. So most of the time the people do the lifting and the repackaging and everything by themselves except for putting it on the line.

Q: Okay. So what would the physical requirements of the job be? So when you're lifting and putting stuff on the line if it's under 50 pounds?

A: Then we do it ourselves.

Q: Okay. So if it's 49 pounds?

A: (NODDING HEAD.) At least.

Q: Okay. What are the other physical requirements as far as –

A: Well, there's other considerations, too. Sometime [sic] if it's not over a certain amount but if it's large where a person can't repack it themselves, anything that's, we bend, we lift, we pull, we package, we unpackage.

Q: Are you standing?

A: Standing. We don't sit. Everything is done on your feet.

Q: And how many hours did you work?

A: Eight hours, 40 hours a week except for special deals, like around Christmastime or Christmas in July, whatever they have, then we work overtime. There's been three years when I worked 60 hour [sic] a week around Christmastime and six weeks in a row.

She offered the following concerning her attempt to return to work

following her injury:

Q: So you continued to work after the back injury for how long?

A: Oh, probably a week or two.

Q: Were you doing the same job or –

A: Same job.

Q: Did they have you doing lighter duty work?

A: Yeah. I went back one day, they brought me back two weeks or three weeks later. I think Beacon put me on not going to work for a couple of weeks.

Q: Okay.

A: But when [sic] went back, they put me back on it. Halfway through, I couldn't do it.

Q: Now –

A: So I told them and they sent me back home and we've been there ever since.

Q: Now, when they sent you back, they sent you back for light duty for some period of time?

A: Yeah.

Q: Right?

A: But there is no light duty in tech and mech.

Q: Okay. So what did they have you doing when you were on light duty?

A: We had, in tech and mech there's an area for extra long things where you match the paper to the product.

Q: Uh-huh.

A: And then they haul it away on a truck because it couldn't get on the line.

Q: And what was the problem with that, what was causing you issues with that?

A: Bending and lifting, walking around the pallets trying to find that, was constantly bending over and trying to read the products and the paper, make sure they match.

Bowman explained that the medication she takes does not prevent constant back pain:

A: It always hurts, even with the medication, really is steps, standing [sic] long time, sitting long times, I can't make my back happy.

Q: Where does it hurt?

A: Beside my spine on the left side lower, lower half on the back on the left side.

Q: Is it only in your back?

A: No, it moves over to my right side at times because I'm putting a lot of, my right side is, how would you say, taking care of what I'm babying my left side on. And walking up the steps, I can make three, four steps and then I have to start pulling myself like that.

Q: Do you have any pain in your legs?

A: Not constantly but it shoots every now and then.

Q: And shoots down which leg?

A: The left side and then occasionally on the right side. My right knee has problems trying to quit on me because I'm constantly putting weight on my right side. I think that's the best way to put it.

Q: And you said the pain is bad even with the medication. What medication are you taking?

A: Tramadol.

Q: And how often do you take that?

A: Twice a day.

Q: Is there anything you do to relieve the pain, anything that makes the pain better?

A: Laying on my right side occasionally, but then I can't even, I can't straighten out my body. I'm kind of like an S shape.

The April 14, 2020, Benefit Review Conference Order and Memorandum lists the following contested issues: "1. Injury under the Act/Causation/Work-relatedness/Pre-existing active condition; 2. Extent and duration including multipliers and compliance with the AMA Guides; 3. Medical Benefits; 4. Credit for Long Term Disability Plan."

In the January 5, 2022, decision, the ALJ set forth the following findings of fact and conclusions of law which are set forth *verbatim*:

Permanent income benefits under KRS 342.730

The parties stipulated that Bowman sustained a work-related injury to her low back. Additionally, the parties agreed that Bowman's injury resulted in a permanent impairment to her person.

Bowman argues that she is permanently and totally disabled as a result of her work injury. KRS 342.0011(11)(c) defines permanent total disability as follows:

"Permanent total disability" means 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 the result of an injury...

In *Ashland v. Stumbo*, 461 S.W.3d 392 (Ky.2015), the Court held that an ALJ must undertake a five-step analysis to determine whether a claimant is totally disabled.

Since the parties stipulated to a work injury, the ALJ must next determine the amount of impairment Bowman has due to the injury. After reviewing the conflicting evidence of Drs. Kruer and Larkin, the ALJ relies on Dr. Larkin to find that Bowman's work injury resulted in a 5% permanent impairment.

Dr. Larkin's impairment rating is the only impairment rating assigned after Bowman reached MMI. According to the AMA Guides, an impairment is not considered permanent until a person's medical condition reaches MMI. Therefore, Dr. Larkin's impairment rating is the most reliable.

Bowman's permanent impairment results in a permanent disability rating of 3.25% (5% x .65 factor).

Next, the ALJ is required to determine whether Bowman is unable to perform any type of work. The ALJ relies on Dr. Kruer's permanent restrictions in conjunction with Bowman's credible testimony to find that she is unable to perform any type of work.

In making this finding, the ALJ must consider Bowman's age, education level, vocational skills, medical restrictions, and the likelihood she can return to work under normal employment conditions. *Ira A. Watson Department Store v. Hamilton*, 34 S.W.3d 48 (Ky. 2000). KRS 342.0011(34) defines work as providing services to another in return for remuneration on regular and sustained basis in a competitive economy.

Bowman is an older worker, 66 years of age, with a long history of factory and service jobs. She has a high school education, some college credits, and military training. Bowman's age, educational level, and employment history are factors that support an award of permanent total disability when coupled with her work restrictions.

Both Drs. Larkin and Kruer opined that Bowman could not return to her work at Amazon. Dr. Larkin stated that it was her cardiac condition that prevented her from returning to work at Amazon; however, the ALJ is not persuaded that her cardiac condition is the reason she cannot return to work.

Dr. Dughman, her cardiologist, did not place any restrictions on Bowman. She testified that only sees her cardiologist every six months now, and she has not had any further issues after her initial heart attack and defibrillator placement. Furthermore, Bowman stated that while she cannot overexert herself because of her heart condition, she cannot return to work because of her low back pain. When asked about if she could return to any of her previous employment positions, Bowman testified, "If it wasn't for my back, I could do a sit down job where I wouldn't have to pick up heavy things or lift or bend and stoop and all of those things all of the time." (HT 33:6-9).

Amazon argued that Dr. Kruer failed to assign restrictions for Bowman's work injury because of his report dated February 7, 2019. At that time, he stated that because she suffered a heart attack that he would need to coordinate with her cardiologist when assigning restrictions. Subsequently, Dr. Kruer did assign permanent restrictions for her work injury in his report dated May 6, 2019. His restrictions were as follows:

Q: Which restrictions, if any, should be placed upon plaintiff/employee's work activities as a result of the injury?

A: No lifting greater than 20 pounds, no pushing/pulling greater than 25 pounds, no excessive standing, and needs to be able to change positions.

Dr. Kruer's restrictions are consistent with Bowman's credible testimony. Throughout her medical records, Bowman described difficulties with her activities of daily living because of back pain. She has difficulty washing the dishes and has to use a handle in the shower because standing aggravates her back pain. As sitting causes her pain as well, she uses a pillow when she drives, and she has to frequently change positions.

It is undisputed that Bowman had a heart attack and brain bleed after her work injury at Amazon. The Court in *Daugherty v. Watts*, 419 S.W.2d 137, 138 (Ky. 1967), addressed the issue of claimant's suffering from a disabling work injury and an independent, concurrent cause of disability. The Court held "it is not within the

intent of the workmen's compensation statutes that an independent, noncompensable disabling cause shall in any way reduce the force and effect of a compensable disabling cause." While her heart attack and brain bleed may have resulted in disability, the ALJ finds Bowman's work injury to be the disabling cause that precludes her from returning to work.

Bowman's employment history consists of various jobs from manufacturing, restaurant work, factory laborer, and a cashier. Bowman testified all her work required standing and some degree of lifting. Her job at Amazon required heavy lifting and standing throughout the day. She described lifting packages that weighed anywhere from 40 to 100 pounds.

After her work injury, Bowman attempted to return to Amazon performing a light duty job. In her light duty position, she matched extra-long products to their respective papers. Bowman was physically unable to perform the light duty job, and she was sent home.

Bowman is an older worker with permanent restrictions that preclude her from returning to her past employment, including her employment at Amazon. She continues to experience constant low back pain, and has difficulties with activities of daily living. Bowman is unable to sit or stand for long periods of time, cannot lift heavy objects, and has difficulty sitting and using a computer. These factors coupled with her age and education are all factors that mitigate against her ability to work a job, 40 hours a week, under normal circumstances. Furthermore, the ALJ finds Bowman's limited experience to jobs that primarily required her to stand at work is a significant factor in her inability to return to work.

Additionally, the ALJ finds Bowman's attempt to return to work at Amazon after her work injury as further evidence that she is permanently and totally disabled. Amazon argued that her heart and brain conditions are the reasons she cannot return to work; however, Bowman attempted to return to a light duty position before she had a heart attack or a brain bleed, and she was unable to perform the job. Her medical records and testimony do not indicate that Bowman has achieved a level of improvement since her failed work attempt that

would demonstrate that another work attempt would produce a successful result.

Based on the evidence in the record and her testimony, Bowman is permanently and totally disabled. She is awarded permanent total disability benefits at a rate of \$549.71 per week beginning on April 6, 2017, and continuing until she reaches age 70 under KRS 342.730(4).

Temporary total disability benefits

Amazon paid temporary total disability benefits from April 19, 2017, through December 2, 2017. The parties contested Bowman's entitlement to additional TTD benefits; however, the issue is moot as the ALJ has awarded PTD benefits.

Medical benefits

KRS 342.020(1) entitles an injured worker to reasonable and necessary medical treatment "for the cure and relief from the effects of an injury." As the parties agreed that Bowman suffered a work injury to her low back, she is entitled to medical treatment for the cure and relief of her low back condition.

ANALYSIS

Importantly, a Petition for Reconsideration was not filed. In the absence of a Petition for Reconsideration, on questions of fact, the Board is limited to a determination of whether substantial evidence in the record supports the ALJ's conclusion. Stated otherwise, where no Petition for Reconsideration was filed, inadequate, incomplete, or even inaccurate fact-finding on the part of an ALJ will not justify reversal or remand if there is substantial evidence in the record supporting the ALJ's ultimate conclusion. Eaton Axle Corp. v. Nally, 688 S.W.2d 334 (Ky. 1985); Halls Hardwood Floor Co. v. Stapleton, 16 S.W.3d 327 (Ky. App. 2000). Thus, with each issue on appeal, our review is quite limited, as we must only

determine whether substantial evidence supports the ALJ's decision. If so, we must affirm.

Amazon first asserts the award of PTD benefits is not supported by substantial evidence. Permanent total disability is the condition of an employee who has a permanent impairment rating and who has a complete and permanent inability to perform any type of work. KRS 342.0011(11)(c). There is no requirement that the claimant be home bound; rather, she must be unable to perform services for remuneration on a sustained and regular basis. KRS 342.0011(34).

In resolving the issue of permanent total disability, the ALJ is required to make an "individualized determination of what the worker is and is not able to do after recovering from the work injury." McNutt Construction/First General Services v. Scott, 40 S.W.3d 854, 860 (Ky. 2001). The analysis includes "consideration of factors such as the worker's post-injury physical, emotional, intellectual, and vocational status and how those factors interact." Ira A. Watson Dept., Store v. Hamilton, 34 S.W.3d at 48, 52 (Ky 2000). Furthermore, the ALJ must provide findings of fact sufficient to inform the parties of the basis of his decision and to permit meaningful review. Kentland Elkhorn Coal Corp. v. Yates, 743 S.W.2d 47 (Ky. App. 1988).

The ALJ relied in part upon Dr. Kruer's restrictions and Bowman's testimony in concluding Bowman is permanently totally disabled. As correctly noted by the ALJ, Bowman testified her job at Amazon required lifting packages weighing up to 100 pounds. However, Dr. Kruer's restrictions include no lifting over 20 pounds. Further, the ALJ reviewed Bowman's "long history of factory and service

jobs” prior to working for Amazon and accurately noted that her work experience is limited primarily to performing jobs requiring her to stand. Yet Dr. Kruer’s restrictions prevent her from excessive standing. Due to this, the ALJ concluded that “Bowman’s limited experience to jobs that primarily required her to stand at work is a significant factor in her inability to return to work.” In conjunction with Dr. Kruer’s restrictions and Bowman’s testimony, the ALJ performed the requisite analysis pursuant to Ira A. Watson Dept. Store v. Hamilton, *supra*, and concluded “Bowman’s age, educational level, and employment history are factors that support an award of permanent total disability when coupled with her work restrictions.” The ALJ was also persuaded by Bowman’s inability to successfully sustain light-duty work at Amazon following her injury. Notably, at the hearing, Bowman testified that even with medication, she is unable to comfortably position her back. As she testified, regardless of whether she is sitting or standing, she cannot make her back happy.

The above-cited evidence comprises substantial evidence supporting the determination Bowman is permanently totally disabled. Therefore, we must affirm.

Amazon next asserts Dr. Kruer’s restrictions, as set forth in the May 8, 2019, Form 107, are not permanent. Amazon asserts as follows: “Dr. Kruer never offers an opinion as to the nature of these restrictions, be they temporary or permanent. It is the Petitioner’s position these restrictions can only be reasonably considered temporary.” Amazon maintains permanent work restrictions cannot be properly assessed until the individual has achieved MMI. On this issue, we affirm.

While the AMA Guides certainly require a claimant to be at MMI before an impairment rating can be considered permanent, it contains no such requirement regarding the assessment of restrictions. Consequently, it was well within the province of the ALJ to infer that Dr. Kruer's restrictions are permanent. 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). Importantly, 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). Although a party may note evidence supporting 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 are so unreasonable under the evidence that they must be reversed as a matter of law. Ira A. Watson Department Store v. Hamilton, *supra*. 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).

Further, an ALJ may pick and choose among conflicting medical opinions and has the sole authority to determine whom to believe. Pruitt v. Bugg Brothers, 547 S.W.2d 123 (Ky. 1977).

As previously noted, Amazon failed to file a Petition for Reconsideration. A finding of fact such as the nature of Dr. Kruer's restrictions (i.e. temporary versus permanent) is precisely the type of finding that must first be challenged in a petition for reconsideration and not, for the first time, on appeal. We find no error in the ALJ's reliance upon Dr. Kruer's restrictions. Therefore, we affirm.

Finally, Amazon asserts Bowman's testimony regarding her ability to return to her pre-injury work does not constitute substantial evidence. Amazon asserts the ALJ should have instead relied upon Dr. John J. Larkin's medical opinions.

In his June 26, 2019, report, Dr. Larkin opined, in relevant part, as follows: "At this juncture, no restrictions will be placed based upon the incident of 4/6/2017. Further intervention is not indicated." However, when the issue is the claimant's ability to labor, it is within the province of the ALJ to rely on the claimant's self-assessment of his/her ability to perform prior work. *See* Ira A. Watson Department Store v. Hamilton, *supra*; Carte v. Loretto Motherhouse Infirmary, 19 S.W.3d 122 (Ky. App. 2000). We have consistently held that the ALJ enjoys the discretion and the authority to rely on a claimant's self-assessment of his/her ability to labor based on his/her physical condition. Hush v. Abrams, 584 S.W.2d 48 (Ky. 1979).

Persuasive to the ALJ was Bowman's testimony she could perform a sit-down job if not for her back. However, her back causes her too much pain. Further, and as previously outlined herein, the ALJ concluded Bowman is unable to return to any of the jobs in which she has experience. As held by the ALJ, "Bowman's employment history consists of various jobs from manufacturing, restaurant work, factory laborer, and a cashier. Bowman testified that all her work required standing and some degree of lifting." Dr. Kruer restricted Bowman from excessive standing and lifting over 20 pounds. The ALJ was permitted to rely upon Bowman's testimony standing alone or in concert with Dr. Kruer's restrictions in reaching her determination regarding Bowman's continued ability to labor. The above evidence constitutes substantial evidence supporting the ALJ's ultimate conclusion regarding Bowman's inability to perform any type of work. Consequently, we must affirm.

Accordingly, on all issues raised on appeal, the January 5, 2022, Opinion, Award, and Order is **AFFIRMED**.

ALL CONCUR.

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