

Commonwealth of Kentucky
Workers' Compensation Board

OPINION ENTERED: January 15, 2021

CLAIM NO. 201788379

YAHAGI AMERICA MOLDING INC

PETITIONER

VS.

**APPEAL FROM HON. TONYA CLEMONS,
ADMINISTRATIVE LAW JUDGE**

JULIE A. CRAINE;
DR. CHRISTIAN UNICK;
INTERVENTIONAL PAIN SPECIALISTS;
DR. RASESH DASAI; AND
HON. TONYA CLEMONS,
ADMINISTRATIVE LAW JUDGE

RESPONDENTS

**OPINION
AFFIRMING**

* * * * *

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

BORDERS, Member. Yahagi America Molding, Inc. ("Yahagi") appeals from the September 22, 2020 Opinion, Award, and Order and the October 12, 2020 Order on Petition for Reconsideration rendered by Hon. Tonya Clemons, Administrative Law Judge ("ALJ"). The ALJ determined Julie Craine ("Craine") suffered a work-related

low back injury on March 1, 2017 resulting in lumbar fusion surgery. The ALJ awarded Craine temporary total disability (“TTD”) benefits, medical benefits, and permanent partial disability (“PPD”) benefits based on a 23% impairment rating, enhanced by the 3.2 multiplier pursuant to KRS 342.730(4), (1)(C) 1 and 3. Yahagi also appeals from the October 12, 2020 Order overruling its petition for reconsideration.

On appeal, Yahagi argues the ALJ failed to perform the proper analysis in determining it failed to prove Craine suffered from a pre-existing active lumbar spine condition. For the reason set forth herein, we affirm.

Craine testified by deposition on November 1, 2017 and August 5, 2019, and at the hearing held July 29, 2020. Craine began working for Yahagi, an automotive parts manufacturer, in October 2015, where she packaged car parts. On March 1, 2017, she reached into a box that was chest level and felt a pull in her low back with immediate ensuing stiffness and pain. Craine treats with her primary care physician for rheumatoid arthritis and depression. She testified she was involved in a motor vehicle accident (“MVA”) in 2014 resulting in a concussion and a neck injury, for which she received chiropractic treatment. Craine denied injuring her low back in the MVA.

In her second deposition, Craine testified she had not worked since two days after the March 2017 work incident. Following a June 2018 fusion surgery, she continued to experience back and bilateral leg pain that she associated with the work incident. She did not believe she could return to her prior employment with Yahagi because she had difficulty with standing, lifting, and bending. She previously

worked twelve to fourteen hours per day, six days per week for Yahagi. After reviewing medical records pre-dating the March 2017 work incident, she recalled she had some back problems related to the MVA in 2014 for which she had an MRI. She also testified she occasionally treated from July 2016 through December 2016, and reported back pain that she attributed to her rheumatoid arthritis. Craine stated that she was able to manage those symptoms and work without restrictions before the March 1, 2017 work event.

At the hearing, Craine testified her job with Yahagi required lifting forty pounds and standing for long periods. She testified she cannot lift that weight now, nor can she stand for eight to twelve hours, even with breaks. Craine reiterated she had a low back condition prior to the March 2017 work incident, but she was able to work approximately sixty to sixty-five hours per week. Following her June 25, 2018 spinal surgery, she is unable to stand over ten to fifteen minutes or perform household chores without breaks. Craine acknowledged she was prescribed the same medications prior to and after the March 2017 work incident, but stated she did not have to rely on the medications as much prior to the work event. Following the March 2017 incident and June 2018 surgery, she needs medication daily.

Yahagi submitted records of medical treatment predating the alleged injury. Records from October 14, 2014 through December 3, 2014 from Heartland Rehabilitation Services indicate Craine was seen for complaints of dizziness. The records also reflect a diagnosis of lumbosacral neuritis NOS.

Yahagi introduced diagnostic studies from TJ Samson Health Pavilion predating the alleged injury. An August 30, 2013 lumbar X-ray showed bilateral pars

defects and a spondylolisthesis of L5. An August 11, 2014 X-ray of the lumbar spine showed mild multi-level disc space narrowing at L4-5 and L5-S1 with mild spondylolysis. An October 15, 2014 lumbar MRI showed a Grade 1 spondylolisthesis of L5 on S1, asymmetric bulge at L5-S1, and a mild disc bulge at L3-4.

Dr. John Jones, D.C. treated Craine beginning on August 22, 2014 for injuries sustained in an August 10, 2014 MVA. Craine reported she “felt pain immediately in the mid back, neck, upper back and shoulder and down into the low back.” Dr. Jones diagnosed strain/sprain injuries to the cervical, thoracic, and lumbar spine with evidence of nerve compression in the lumbar and cervical spine. X-rays revealed a mild spondylolisthesis at L5 on S1. He primarily treated her cervical condition. He consistently classified the thoracic, shoulder, and low back conditions as secondary complaints. Throughout most of 2014, he frequently noted the low back complaint as improving. In November and December 2014, he noted increased complaints related to the low back. No treatment notes were submitted after December 15, 2014 until August 13, 2015. The last note from Dr. Jones on May 19, 2016 indicates Craine experienced mid-thoracic pain down to her lumbar spine. Palpation revealed tension and spasm, hypo-mobility, and end-point tenderness indicative of subluxation at L5, right pelvis, and L2.

Yahagi filed records from Cave City Prescription Center documenting prescriptions in 2014, 2016, and February 2017 for Meloxicam, Nabumetone, Ibuprophen, Celecoxib, Meloxicam, Diclofenac, Cyclobenzaprine, Hydrocodone, and Gabapentin.

Dr. Swaranjit K. Chani of Caverna Primary Care saw Craine on May 13, 2016. Craine reported weakness, fatigue, and dull aching low back pain. Craine returned on May 16, 2016, reporting left-sided low back pain.

Dr. Manmeet Sandhu saw Craine on October 26, 2016, for a post-operative check following a tubal ligation. Craine reported some pain in the right back and abdomen following heavy lifting at home. Dr. Sandhu diagnosed a muscle strain.

Yahagi submitted records from Dr. Asad Fraser of the Graves-Gilbert Clinic. On an October 26, 2016 intake form, Craine checked that she had experienced back, neck, and joint pain within the past month. Dr. Fraser obtained X-rays of the lumbar spine that revealed Grade 1 spondylolisthesis at the lumbosacral junction and mild degenerative changes of the lumbar spine. Craine also reported back pain on November 17, 2016 and December 27, 2016.

Dr. Thomas O'Brien evaluated Craine on August 18, 2017. He summarized voluminous treatment and diagnostic records predating the alleged work injury as well as those following the injury. Dr. O'Brien diagnosed chronic low back pain secondary to congenital L5-S1 spondylolisthesis and multilevel degenerative disc disease. Dr. O'Brien found Craine did not sustain a work-related injury on March 1, 2017. He opined the incident on that date was a manifestation and natural history of degenerative disc disease in a middle-aged overweight patient with congenital L5-S1 spondylolisthesis. Dr. O'Brien stated the work activities on that date did not cause a temporary or permanent aggravation, acceleration, or precipitation of these pre-existing conditions. He believed the incident did not cause

any type of structural change. Dr. O'Brien noted the 2017 lumbar MRI showed the same multilevel degenerative changes and congenital defect that was apparent on the October 14, 2014 MRI.

Likewise, X-rays of the lumbar spine on October 26, 2016 showed the same degenerative changes and congenital defect that were apparent on subsequent imaging studies after March 1, 2017. Dr. O'Brien further noted Craine had five out of five positive Wadell's signs, supporting a non-organic, non-physiologic aspect to her subjective complaints. He stated there is no physiologic or anatomic basis for assigning restrictions and assigned a 0% impairment rating related to the alleged injury pursuant to the 5th Edition of the American Medical Association Guides to the Evaluation of Permanent Impairment, ("AMA Guides"). Dr. O'Brien stated Craine had an 8% pre-existing active impairment rating for her degenerative disc disease with congenital L5-S1 spondylolisthesis.

In a March 29, 2018 supplemental report, Dr. O'Brien stated his review of additional medical evidence supports his opinion that the progression of the spondylolisthesis is not work-related. He stated any worsening of symptoms relates to the natural progression of her condition. Dr. O'Brien reiterated that the alleged work incident did not rise to the level of an injury. The work activity described did not involve biomechanical forces that would result in any type of injury. Dr. O'Brien disagreed with Dr. Stephen M. Neely's opinion that progression of her spondylolisthesis is related to the work incident.

Dr. Neely examined Craine on March 13, 2018. Craine gave a history of the March 1, 2017 work injury. Dr. Neely indicated he reviewed Dr. Jones'

records. X-rays following the 2014 MVA revealed a possible mild spondylolisthesis. Dr. Neely diagnosed an exacerbation of Craine's pre-existing spondylolisthesis. He stated Craine's spondylolisthesis progressed from Grade 1 to Grade 2 and assigned an 8% impairment rating pursuant to the AMA Guides. In a supplemental report, Dr. Neely stated the work incident proximately caused a harmful change to the human organism based upon objective medical findings.

Dr. Thomas Loeb evaluated Craine on September 17, 2019. Dr. Loeb stated Craine had longstanding active pre-existing congenital spondylolisthesis at L5-S1 with L5 pars defect and was status post posterior lumbar fusion with post-laminectomy syndrome. He opined she had a transient strain of the lumbosacral spine from her work injury. He did not believe the work incident caused, nor exacerbated, her underlying longstanding, active, pre-existing problem. Dr. Loeb felt Craine reached maximum medical improvement approximately four to six weeks after the date of injury. He stated her pre-injury impairment is difficult to assess due to a lack of measurements in change in flexion and extension on radiographs. However, he felt Craine had a 20% impairment rating pursuant to the AMA Guides AMA prior to her surgery, and 23% post-fusion. He did not feel the mechanism of injury included enough force to worsen her underlying condition. He felt any progression was within the parameters and natural course of the disease process. He did not believe that she required any restrictions or medical treatment due to the work-related injury and would be able to return to her job were it not for her underlying pre-existing condition.

In a February 19, 2020 supplemental report, Dr. Loeb stated, after review of surveillance video, he believed Craine could perform her work duties with minimal restrictions and did not need pain management. He continued to believe her impairment rating is 100% pre-existing and not work-related.

Dr. Rasesh Desai saw Craine on June 16, 2017, for low back pain with a report of a back injury at work in March 2017. She was reaching and felt a tightness and sharp pain in her back. Since that time, her pain had become constant and severe, and caused numbness and tingling. She also reported pain in her bilateral lower extremities. Dr. Desai noted a comparison of X-rays from March 2017 to the date of the examination showed a progression of the previous spondylolisthesis. He recommended use of a back brace and referred her to pain management for a trial of lumbar epidural steroid injections. If there was no improvement of pain, he felt Craine might be a surgical candidate. Dr. Desai performed a lumbar fusion on June 25, 2018. On November 9, 2018, he indicated Craine was referred to pain management for SI joint injections bilaterally as well as chronic pain management. Dr. Desai recommended a lumbar CT scan to evaluate the fusion.

Dr. Robert Landsberg examined Craine on September 18, 2019. Craine stated she was able to perform factory work without difficulty for two years until a March 1, 2017 injury. She reported averaging 100 hours for each two-week period prior to the injury. She also reported a 2014 MVA when she injured her neck and underwent chiropractic treatment. Dr. Landsberg noted she had a lumbar MRI in 2014 that showed bilateral L5 pars defects with a Grade 1 spondylolisthesis,

although Craine reported she was not experiencing pain. Dr. Landsberg provided a summary of copious medical records he reviewed, including Dr. Neely's March 13, 2018 report, and Dr. O'Brien's records and August 18, 2017 report. Dr. Landsberg specifically referred to Dr. O'Brien having reviewed X-rays from 2013 showing pars defects and spondylolisthesis; having been in an MVA in 2014 resulting in X-rays; receiving chiropractic treatment in 2014; and having a lumbar MRI in October 2014. Dr. Landsberg also noted Dr. Fraser's notes from 2016 contained complaints of back pain.

Dr. Landsberg diagnosed Craine with an aggravation and advancement of a pre-existing spondylolytic spondylolisthesis of the lumbar spine, secondary to a March 1, 2017 work injury, with ongoing back pain and stiffness. He stated the work injury aggravated, advanced, and brought into disabling reality the pre-existing relatively dormant condition of her spine. Dr. Landsberg stated, "Had it not been for the work injury, she would not have developed the progressive back problems requiring the lumbar spine fusion surgery." He assessed a 23% impairment rating pursuant to the AMA Guides using the DRE method following the two level fusion and found Craine completely disabled from the lumbar injury. He recommended permanent restrictions of no bending or stooping, no sitting for more than 20-25 minutes, no riding in the car for 20-25 minutes at a time, avoid standing for more than 10 minutes at a time, and no lifting of more than five pounds. After review of a surveillance report and video, Dr. Landsberg issued a March 9, 2020 addendum. His review did not alter his original opinion that Craine suffered an aggravation of a pre-existing, relatively dormant condition that was brought into a

disabling reality by the work accident. He also reaffirmed the 23% impairment rating.

Yahagi submitted a March 1, 2017 X-ray report revealing bilateral pars defects with a Grade 1 spondylolisthesis of L5 on S1, mild degenerative changes, and degenerative disc disease at L5-S1. An April 11, 2017 MRI revealed bilateral pars defects with a Grade 1 spondylolisthesis, mild hypertrophic changes, and multilevel discogenic disease with moderate bilateral foraminal stenosis at L5-S1.

At the Benefit Review Conference and Final Hearing, the parties stipulated the remaining issues for determination were:

“Injury,” as defined by the Act, i.e. whether injury is temporary or permanent; Permanent income benefits per KRS 342.730; Permanent total disability; Exclusion for pre-existing impairment; Ability to return to work; TTD Benefits; Unpaid or contested medical expenses; MFD filed by Defendant/Employer regarding surgery recommended by Dr. Desai.

The ALJ considered the evidence of record and made the following findings of facts and conclusions of law relative to the issues on appeal, which are set forth, *verbatim*:

Plaintiff argues that she suffered a permanent injury that caused her to discontinue work and subsequently led to a two-level spinal fusion. Defendant, on the other hand, essentially argues that Plaintiff had a pre-existing, active condition that returned to its baseline state within four to six weeks of the alleged work injury. There is conflicting evidence on this issue.

The courts of this jurisdiction have explained both temporary and permanent injuries as well as pre-existing conditions and how those interact with a work-related injury. In Kentucky, an injury may be temporary, requiring the payment of TTD benefits and temporary medical benefits, while not resulting in

permanent change to the human organism that qualifies for permanent disability benefits or medical benefits. Robertson v. UPS, 64 S.W.3d 284 (Ky. 2001).

It is not disputed in this matter that, based upon medical records and testimony, Plaintiff had pre-existing conditions of L5/S1 spondylolisthesis as well as rheumatoid arthritis, which she asserts mainly affected her hands. These conditions and treatment are reflected in records from Heartland Rehabilitation Services, Jones' Chiropractic, Dr. Fraser, and a prescription ledger from Cave City Pharmacy. Despite those pre-existing conditions, it is undisputed—and the wage records substantiate—that Plaintiff was able to work in her regular position pre-injury for forty-hours per week with significant overtime, which was confirmed by Plaintiff's credible testimony on that issue.

While there is a period of absence from work in 2016 noted in the wage records, there is no indication that any such absence was due to any non-workrelated, low back condition. In fact, Ms. Craine testified at her formal hearing that she was absent from work during this period due to a difficult, non-workrelated hysterectomy procedure. Otherwise, she testified that she was able to manage her symptoms without significant treatment prior to March 2017.

Ms. Craine, however, suffered an injury on March 1, 2017 that led to a condition that did not subside. Based upon the records of Dr. Desai, a comparison of diagnostic studies from March 2017 to May 2017 showed a progression of the spondylolisthesis condition from grade 1 to grade 2. Likewise, the April 11, 2017 lumbar MRI report makes reference to a comparison to October 2014 studies and finds that there was increased moderate bilateral foraminal stenosis at the L5/S1.

There is no indication that there were any restrictions to Plaintiff's low back prior to the March 1, 2017 incident that prevented Mr. Craine from performing her normal duties as a packer for Defendant. Further, there is no indication that Plaintiff was a surgical candidate prior to the March 1, 2017 incident.

Following the incident, however, Ms. Craine has been unable to work except for a two day period in late March 2017 when she returned to light duty work, but was sent home by Defendant due to pain. She has been unable to return to work for Defendant since that time. Thus, based upon the records from Dr. Fraser and Dr. Desai, the diagnostic studies, the wage records, and Ms. Craine's testimony, the Administrative Law Judge finds that any pre-existing low back conditions were permanently exacerbated by the March 1, 2017 work-place injury.

With respect to the L4 through S1 fusion procedure performed by Dr. Desai on June 25, 2018, Plaintiff argues that the surgery is due to the work injury based upon the opinions of Dr. Neely, Dr. Landsberg, and Dr. Desai. Defendant argues that the same was reasonable and necessary to treat Plaintiff condition, but it was for Ms. Craine's congenital and long-standing back problems not the work injury based upon the opinions of Dr. Goldman, Dr. O'Brien, and Dr. Loeb. As noted, the medical evidence prior to the work incident from Hartland Rehabilitation, Jones Chiropractic, Dr. Chani, or Dr. Fraser does not indicate that that Ms. Craine was a surgical candidate for her low back prior to the March 1, 2017. The medical records of Dr. Desai and diagnostic studies following the work incident when compared to pre-injury records and studies substantiate the lack of prior surgical recommendation for the lumbar spine. Moreover, the opinions of Dr. Landsberg reflect that March 2017 work incident contributed more than fifty percent of her need for further treatment and spine surgery. Finally, Plaintiff testified that she was able to manage any symptoms and problems in her back prior to the work incident. Accordingly, based upon the medical records of Dr. Desai, various diagnostic studies, the opinions of Dr. Landsberg, and Plaintiff's testimony, the ALJ finds that the June 25, 2018 L4/5 and L5/S1 posterior spinal fusion is related to the March 1, 2017 work injury and; thus, is compensable by Defendant.

Regarding the issue of whether Craine suffered from a pre-existing active lumbar spine condition, the ALJ made the following findings and conclusions:

The issue now becomes the extent and duration of Plaintiff's disability. Plaintiff argues that due to the March 1, 2017 incident, she has a 23% AMA impairment rating as a result of this injury and the fusion procedure per the opinions of Dr. Landsberg. Moreover, when the physical limitations caused by the injury are taken into consideration, Plaintiff believes that she is permanently and totally disabled.

Defendant, on the other hand, argues that the facts of this case are that, at best, the fusion surgery was not work-related and no permanent impairment is due to the injury. Alternatively, Defendant argues that while Dr. Loeb assessed 23% impairment, Plaintiff had a pre-existing, active condition with either 8% or 20% pre-existing impairment for which it is entitled to a carve-out from its liability for income benefits.

While Ms. Craine had pre-injury symptoms in her low back, those symptoms and treatment were episodic at best. First, the records of evidence reflect that she treated in October 2014 following a motor vehicle accident. There is then a gap in any treatment records until May 2016. While she had lumbar pain complaints, the prescription ledger does not indicate that she was specifically taking any medications for pain at that time. Additionally, from July 2016 through December 2016, Plaintiff testified at her formal hearing that she was off work due to a difficult hysterectomy. Records from Dr. Sandhu indicate that she was seen in October 2016 for a post-operative check after lifting at home. The records of Dr. Fraser reflect that Plaintiff was seen in October through December 2016 for her rheumatoid arthritis in her right hip, hands, and neck. While Defendant relies on the opinions of Dr. O'Brien indicating that in December 2016, Plaintiff reported pain at a 10/10 including generalized back pain, the actual records do not appear to substantiate the same.

Overall, the Administrative Law Judge found Ms. Craine to be a credible witness. She testified that she continues to have pain in her low back that radiates to her bilateral lower extremities that was at a greater degree of severity following the March 1, 2017 incident than it was prior to the work event. She also testified that she was fully functional and without physical limitation to her low back before that incident. Her wage records reflect that upon her return to work in early December 2016, Plaintiff was able to work for more than forty hours per week. The IME report of Dr. Landsberg indicates that for his original evaluation, he had the opportunity to review the original report of Dr. O'Brien where Plaintiff's pre-injury treatment was laid out and a pre-existing impairment was assessed.

Based upon the records of Dr. Fraser, Dr. Chani, diagnostic studies, prescriptions ledgers, Plaintiff's wage records, and her testimony, the Administrative Law Judge does not find the opinion of Dr. Loeb apportioning 20% to a pre-existing, active condition or the opinions of Dr. O'Brien apportioning 8% to a pre-existing, active condition credible or persuasive as Plaintiff was able to function without restrictions immediately prior to the March 1, 2017 incident. Accordingly, based upon the aforementioned records along with the records of Dr. Desai and the opinions of Dr. Landsberg, the ALJ finds that Plaintiff has 23% impairment due to the work incident for the March 1, 2017 work incident. A 23% AMA impairment results in a 26.45% permanent disability rating.

Yahagi filed a Petition for Reconsideration requesting the ALJ correct what it believed was an error on her part, and to assign a pre-existing active impairment, thereby reducing the amount of the PPD benefits awarded. The ALJ denied this petition, reiterating her opinion that her original findings were supported by the evidence.

As the claimant in a workers' compensation proceeding, Craine had the burden of proving each of the essential elements of her claim. Snawder v. Stice,

576 S.W.2d 276 (Ky. App. 1979). Because Yahagi was not successful in their burden, the question on appeal is whether the evidence compels a different result. Wolf Creek Collieries v. Crum, 673 S.W.2d 735 (Ky. App. 1984). “Compelling evidence” is defined as evidence that is so overwhelming, no reasonable person could reach the same conclusion as the ALJ. REO Mechanical v. Barnes, 691 S.W.2d 224 (Ky. App. 1985).

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). Although a party may note evidence supporting a different outcome than 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 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).

On appeal, Yahagi argues the ALJ erred by misconstruing evidence, and/or controlling precedent, and/or failing to entertain the proper analysis of relevant factors in determining it failed to prove Craine suffered from a pre-existing active lumbar spine condition. It argues it clearly met its burden of proving the existence of a pre-existing active lumbar condition that was both impairment ratable and symptomatic at the time of the March 1, 2017 work incident. Yahagi argues the ALJ incorrectly applied the law, as set forth in the case of Finley v. DBM Technologies, 217 S.W.3d 261 (Ky. App. 2007).

The test to determine whether an injured worker suffers from a pre-existing active condition was set forth in the case of Finley v. DBM Technologies, *supra*. It is a two-part test that places the burden on the employer to submit proof showing two things. First, it must prove that the worker retained an impairment to the body part alleged to have been injured in the work incident. Second, it must prove the pre-existing condition was also symptomatic.

While the ALJ did not specifically cite the Finley case, it is clear she understood the law, the burden of proof, and the evidence. The ALJ was confronted with conflicting medical evidence. The first step of the Finley test was arguably met with testimony from Dr. Loeb and Dr. O'Brien assessing a pre-existing active lumbar spine impairment rating. The testimony from Dr. Lunsford indicated he did not believe Craine retained a pre-existing impairment rating to her lumbar spine. The

evidence regarding application of part two of the test, whether the pre-existing condition was symptomatic, was likewise disputed. Yahagi submitted various medical records indicating medical treatment and medications received by Craine prior to the March 1, 2017 work incident for treatment of her lumbar spine. Yahagi argues this evidence leads to the logical conclusion that Craine's lumbar spine condition was symptomatic at the time of the March 1, 2017 work incident. Conversely, Craine testified that she was not suffering from a symptomatic active lumbar spine condition at the time of the March 1, 2017 incident, and in fact was working a lot of overtime without issue or under any restrictions. She additionally submitted evidence from Dr. Lunsford opining her lumbar spine was not both impairment ratable and symptomatic at the time of her work injury.

The ALJ performed the proper analysis and reached a determination supported by the evidence in finding Yahagi did not meet its burden of proving Craine was suffering from a pre-existing active lumbar condition that was both impairment ratable and symptomatic immediately prior to the March 1, 2017 work injury. The ALJ properly exercised her discretion as the trier of fact in weighing the evidence and making a decision. The decision is based on a proper review of the facts and law and will not be disturbed on appeal.

Accordingly, the September 22, 2020 Opinion, Award, and Order and the October 29, 2020 Order on Petition for Reconsideration rendered by Hon. Tonya Clemons, Administrative Law Judge are **AFFIRMED**.

ALL CONCUR

DISTRIBUTION:

COUNSEL FOR PETITIONER:

LMS

HON SHERRI KELLER
300 E MAIN ST., STE 400
LEXINGTON, KY 40507

COUNSEL FOR RESPONDENT:

LMS

HON DONALD D. ZUCCARELLO
5409 MARYLAND WAY, STE 215
BRENTWOOD, TENNESSEE 37027

RESPONDENTS:

DR. CHRISTIAN UNICK
165 NATCHEZ TRACE, STE 205
BOWLING GREEN, KY 42104

USPS

DR. RASEASH DASAI
825 2ND AVENUE E, STE C2
BOWLING GREEN, KY 42101-1786

USPS

INTERVENTIONAL PAIN SPECIALISTS
825 2ND AVENUE E, STE C2
BOWLING GREEN, KY 42101-1791

USPS

ADMINISTRATIVE LAW JUDGE:

LMS

HON TONYA CLEMONS
MAYO-UNDERWOOD BLDG
500 MERO ST, 3RD FLOOR
FRANKFORT, KY 40601