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This opinion shall not "constitute precedent or be binding upon any court."
Although it is posted on the internet, this opinion is binding only on the
parties in the case and its use in other cases is limited. R. 1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0606-16T3

BRIAN MCLAUGHLIN,

Petitioner-Respondent,

v.

TOWNSHIP OF UNION,

Respondent-Appellant.

Submitted November 15, 2017 – Decided December 12, 2017

Before Judges Alvarez and Currier.

On appeal from the Division of Workers'
Compensation, Department of Labor and
Workforce Development, Claim Petition No.
2016-1601.

Florio Kenny Raval, LLP, attorneys for
appellant (Edward J. Florio, of counsel and
on the brief; Keith Kandel and Paul
Samouilidis, on the briefs).

Savo, Schalk, Gillespie, O'Grodnick & Fisher,
PA, attorneys for respondent (Christopher M.
Corsini, on the brief).

PER CURIAM

Respondent Township of Union appeals the final decision by
the Division of Workers' Compensation (Division), which approved

petitioner Brian McLaughlin's claim for medical and temporary pay benefits. After reviewing the contentions in light of the record and applicable principles of law, we affirm.

Petitioner is employed by the Township as a police officer. He claims that, while on duty, he injured his foot while walking down some stairs in the police station. Petitioner testified at the workers' compensation hearing that he advised his supervisor, Sergeant Matthew Brescia, of the injury that same evening. Although the pain persisted, petitioner did not seek any treatment for the foot for several weeks.

Approximately three weeks later, petitioner told Lieutenant Frank Marano that he had injured his foot at work several weeks earlier, that the pain had become intolerable, and that he needed to go to the hospital for treatment. Petitioner advised that he had told Brescia about the injury on the night it had occurred. When queried by Marano, Brescia told him he did not recall any conversation with petitioner about an injury.

Petitioner was seen in the emergency department where x-rays were taken, and he was referred to a foot specialist. The specialist recommended an MRI and placed petitioner in a walking boot. The Township subsequently determined the injury did not occur at work, and petitioner has not undergone any further

treatment. He brought this claim for medical benefits and temporary pay.

Sergeant Brescia testified that he did not recall having any conversation with petitioner about a foot injury. He said he first learned about the injury from Lieutenant Marano several weeks after it had occurred. Brescia further testified that customarily, an incident report is filled out after any report of an injury. There was no report filled out until the night petitioner advised Marano that he needed to go to the hospital.

In a written decision on July 29, 2016, the workers' compensation judge concluded that petitioner had sustained a work-related injury. He stated:

There is no proof of another injury or incident and I believe Petitioner that he thought it was minor in nature at the time and would resolve itself. . . .

I make this finding based upon the credibility of the witnesses and the totality of the factual circumstances in this case. Regardless of the timing of it being reported or Police Department Policy, I find that an incident involving petitioner's left foot occurred while petitioner was on the job.

Petitioner was awarded medical treatment and temporary disability benefits and was authorized to undergo an MRI. This appeal followed.

"[T]he scope of appellate review of factual findings by a judge of compensation is limited." Renner v. AT&T, 218 N.J. 435, 448 (2014) (citing Close v. Kordulak Bros., 44 N.J. 589, 599 (1965)). "The question for a court is 'whether the findings made could reasonably have been reached on sufficient credible evidence present in the record,' considering 'the proofs as a whole,' with due regard to the opportunity of the one who heard the witnesses to judge of their credibility." Hobson v. N.J. State Parole Bd., 435 N.J. Super. 377, 388 (App. Div. 2014) (quoting Kordulak Bros., supra, 44 N.J. at 599). A petitioner bears the burden of establishing the compensability of the claim being made. Perez v. Monmouth Cable Vision, 278 N.J. Super. 275, 282 (App. Div. 1994), certif. denied, 140 N.J. 277 (1995).

Conclusions of law are reviewed de novo on appeal. Manalapan Realty, LP v. Twp. Comm. of Manalapan, 140 N.J. 366, 378 (1995) ("A trial court's interpretation of the law and the legal consequences that flow from established facts are not entitled to any special deference."). The same standard applies to the legal rulings of a compensation judge. Sexton v. Cty. of Cumberland/Cumberland Manor, 404 N.J. Super. 542, 548 (App. Div. 2009).

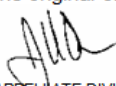
The Township argues that the judge's factual findings and legal determinations were not supported by the relevant evidence,

and that petitioner did not meet his burden of proving that the injury was work related. We disagree. The judge made credibility findings and cited the evidence that supported his factual findings. The only discrepancy in the witnesses' testimony was the conversation petitioner claimed to have had with Brescia about the injury at the time it occurred. Brescia, however, only testified that he did not recall a conversation. The judge did not find that testimony sufficient to compel a determination that no injury had occurred. There were no other proofs presented to refute petitioner's testimony as to the origin of his foot injury nor was there any testimony of a preexisting condition or prior injury to the foot.

We are satisfied that the judge's determinations were supported by the substantial credible evidence in the record.

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


CLERK OF THE APPELLATE DIVISION