Commonwealth of Kentucky
Workers' Compensation Board

OPINION ENTERED: November 14, 2014

CLAIM NO. 201170462

FLAT ROCK FURNITURE PETITIONER

VS. **APPEAL FROM HON. WILLIAM J. RUDLOFF, ADMINISTRATIVE LAW JUDGE**

STEVEN NEELEY
and HON. WILLIAM J. RULDOFF,
ADMINISTRATIVE LAW JUDGE RESPONDENTS

OPINION
VACATING IN PART AND REMANDING

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

ALVEY, Chairman. Flat Rock Furniture ("Flat Rock") seeks review of the Opinion and Order rendered July 14, 2014 by Hon. William J. Rudloff, Administrative Law Judge ("ALJ") finding Steven Neeley ("Neeley") is entitled to permanent total disability ("PTD") benefits due to his right eye injury sustained on October 10, 2011 while attempting to

bend a piece of wood used in the furniture manufacturing process. The ALJ awarded temporary total disability ("TTD") benefits from October 11, 2011 through December 3, 2013 at the rate of $333.46 per week, PTD benefits thereafter, and medical benefits. Flat Rock also seeks review of the August 15, 2014 order denying its petition for reconsideration.

On appeal, Flat Rock argues the ALJ made no factual findings to support his decision. Flat Rock also argues Neeley's testimony is not supported by the medical evidence. Because we determine the ALJ neither made adequate findings of fact nor provided an appropriate analysis supporting his conclusions, we vacate and remand.

Neeley filed a Form 101 on February 25, 2013, alleging he injured his right eye on October 10, 2011 when it was struck by a piece of wood which slipped out of a holder. Neeley's employment history indicates he began working for Flat Rock in September 2000. Prior to that, he worked as a machine operator for another employer from 1987 to 2000. He is a high school graduate with no specialized or vocational training.

Neeley testified by deposition on October 3, 2013, and again on January 7, 2014. He also testified at the hearing held June 19, 2014. Neeley was born on August 26, 1963, and is a resident of Annville, Kentucky. He began

working for Flat Rock on September 20, 2000. He worked there as a machine operator preparing wood for the furniture manufacturing process. He also operated a forklift, built furniture, and assisted in bending wood used in making chairs.

On October 10, 2011, Neeley was bending a piece of wood used in making hoops for chairs. When he attempted to place a hoop in a holder for finishing, it slipped and struck him in the right eye. At the time of the accident, he was wearing glasses which were broken by the force of the impact, and his eye was scratched. He was taken to St. Joseph Hospital in London, Kentucky. He was transferred to the University of Kentucky Medical Center ("UKMC"). He has not worked since the accident, except for preaching at two small churches for which he is paid one hundred dollars per month.

Subsequent to the accident, Neeley underwent multiple surgical and laser procedures for the right eye. He also underwent cataract surgery for his left eye which he understood was an attempt to equalize his vision. His injury and treatment resulted in his wearing a patch over his right eye due to complaints of double vision, and the wearing of dark glasses to combat light sensitivity. Neeley

stated he is unable to drive due to the light sensitivity, and the lack of depth perception.

Neeley uses multiple eye drops on a daily basis to treat his condition. He does not believe he can return to his previous employment which consisted of using tools, including saws, or any other aspect of his work due to his visual difficulties. Likewise, he does not believe he can perform any aspect of his other previous employment including logging, work at a coal processing plant, welding, or as a security guard.

In support of the Form 101, Neeley filed the November 27, 2012 report of Dr. Sheila Sanders with whom he treated at the UKMC. Dr. Sanders noted Neeley has right eye pain and photophobia in the left eye. She stated Neeley is unable to drive a company vehicle, and his activities are limited due to light sensitivity stemming from the October 10, 2011 injury. She stated Neeley is visually impaired in the right eye and has untreatable diplopia with severe light sensitivity. Dr. Sanders stated his symptoms are inconsistent with the physical findings. She opined, "I believe it is unlikely he can return to work ever unless he experiences spontaneous improvement." On June 20, 2013, she performed another procedure for glaucoma, and indicated Neeley was unable to work. On July 23, 2013, Dr. Sanders

noted Neeley had a long complicated history following his eye trauma. She noted his concerns about being able to function safely at work. She advised him to continue using eye drops.

Dr. Raymond Schultz examined Neeley on April 26, 2013. He noted the October 10, 2011 traumatic right eye injury when a piece of wood slipped from a holder. He diagnosed a corneal abrasion of the right eye, resolved, with no visual scarring; soft tissue swelling, resolved; contusion of the right orbital area and lids, resolved without any significant scarring; Hyphema, blood in the auteria chamber of the right eye, resolved; decreased visual acuity in the right eye, 20/70 best corrected after cataract extraction with intraocular lens implant; secondary cataract of right eye at elevated pressure, enlarged optic cup, visual field defect, and all components of traumatic glaucoma unresolved; light sensitivity and double vision, unresolved; maculopathy, unresolved. He opined all of these conditions were caused by the work injury. He stated Neeley had not reached maximum medical improvement ("MMI"), and therefore he could not assess a functional impairment rating. Dr. Schultz stated Neeley does not retain the capacity to do the work he performed at the time of the

injury. He restricted Neeley from driving or working around machinery due to lack of depth perception.

Flat Rock filed records from Dr. Ben Mackey for treatment from February 11, 2013 through June 18, 2013 for dilated pupil, glaucoma and eye irritation. On his initial date of treatment, Dr. Mackey stated he was unsure why Neeley had iritis. He noted he would consider performing an iridotomy if the intraocular pressure did not improve. On February 20, 2013, Dr. Mackey noted improvement, and indicated Neeley could return to work, but would have difficulty placing or moving small objects, or driving at night. On that same date, Dr. Mackey was concerned about Neeley's anisometropia, noting a huge difference in the glasses prescription between the two eyes. He stated cataract surgery may be required on the better eye. The cataract surgery was later performed for the left eye.

Flat Rock filed the January 27, 2012 record of Dr. James Huffman. Dr. Huffman diagnosed Neeley with a questionable orbital floor fracture; resolved corneal abrasion; ecchymosis; contusion, eyelids/periocular; improved "subconj." hemorrhage; presbyopia, trauma induced glaucoma; [slight] scarring of the cornea; KCS (dry eye syndrome); mydriasis. He indicated Neeley could return to work with the aid of dark glasses to protect his eye. On

March 6, 2012, Dr. Huffman indicated Neeley could wear an eye patch at work. On April 9, 2012, Dr. Huffman noted Neeley's complaints of blurry vision, and double vision when he did not wear an eye patch.

Dr. Woodford Van Meter evaluated Neeley on September 17, 2013 at Flat Rock's request, and prepared a report dated September 19, 2013. He noted the history of traumatic right eye injury, and outlined numerous procedures and treatment administered. He stated Neeley complained of double vision, light sensitivity, and the use of eye drops. Dr. Van Meter opined Neeley's complaints were consistent with chronic glaucoma. He stated Neeley may require additional surgery. He assessed a 17% impairment rating pursuant to the 5th Edition of the American Medical Association, Guides to the Evaluation of Permanent Impairment ("AMA Guides") for Neeley's work-related injuries. He was unable to elicit a reliable history of double vision, or demonstrate diplopia, and was unsure if wearing an eye patch increased Neeley's acuity.

In a subsequent report dated December 17, 2013, Dr. Van Meter stated he could not explain Neeley's photosensitivity and diplopia, and there was no clinical correlation of the subjective symptoms. He stated the 17% impairment rating was actually assessed based upon the 6th

Edition of the AMA Guides, but there was little difference in the result using either edition. He stated Neeley could return to work at his pre-injury job, but may be unable to use some tools due to his lack of depth perception.

Dr. Ralph Crystal performed a vocational evaluation on March 17, 2014. He stated Neeley is employable on a regular basis. He further opined Neeley is a good candidate for vocational rehabilitation.

A telephonic benefit review conference ("BRC") was held on June 3, 2014. The BRC order and memorandum reflects the contested issues were capacity to return to work performed at the time of injury; TTD benefits; benefits per KRS 342.730, vocational rehabilitation benefits; and whether Neeley is permanently totally disabled. A hearing was held on June 19, 2014, at which time the parties stipulated the 17% impairment rating assessed by Dr. Van Meter was appropriate.

The ALJ rendered his decision on July 14, 2014. The ALJ listed the evidence, and determined Neeley was entitled to TTD benefits from "October 11, 2011 to and including December 3, 2013", the date Dr. Van Meter evaluated him. The ALJ also awarded PTD benefits beginning December 4, 2013, terminating when he qualifies for normal

old age Social Security retirement benefits pursuant to KRS 342.730(4). He specifically found 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 a result of an injury . . . ." Kentucky Revised Statutes (KRS) 342.0011. To determine if an injured employee is permanently totally disabled, an ALJ must consider what impact the employee's post-injury physical, emotional, and intellectual state has on the employee's ability "to find work consistently under normal employment conditions . . . . [and] to work dependably[.]" *Ira A. Watson Dept. Store v. Hamilton*, 34 S.W.3d 48, 51 (Ky. 2000). In making that determination,
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> > "the ALJ must necessarily consider the worker's medical condition . . . [however,] the ALJ is not required to rely upon the vocational opinions of either the medical experts or the vocational experts. A worker's testimony is competent evidence of his physical condition and of his ability to perform various activities both before and after being injured."
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> Id. at 52. (Internal citations omitted.) See also, *Hush v. Abrams*, 584 S.W.2d 48 (Ky. 1979).
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> In this case, I considered the severity of Mr. Neeley's right eye injuries on October 10, 2011, his credible and convincing sworn testimony at the Final Hearing, as covered above, the medical evidence from Dr. Schultz, as covered above, and also the parties'

> Stipulation that the plaintiff Mr. Neeley will sustain under the AMA Guides, Fifth Edition, a 17% permanent impairment to the body as a whole as a result of his work injuries on October 10, 2011. I also take into consideration the fact that Mr. Neeley is now 50 years of age, meaning that he is an older worker in the highly competitive job market. I also take into consideration the fact that Mr. Neeley has not worked since October 10, 2011. I take into consideration his sworn testimony that he has lost the vision in his right eye, has double and triple vision, is light sensitive in his left eye, does not drive a motor vehicle and cannot return to any employment. I take into consideration the fact that Mr. Neeley graduated from high school many years ago and has absolutely no specialized or vocational training. I take into consideration the reasonable assumption that if he went out into the highly competitive job market, he would have an extremely difficult time in finding any regular gainful employment. Based upon all of the above factors, I make the determination that the plaintiff Mr. Neeley cannot find work consistently under regular work circumstances and work dependably. I, therefore, make the factual determination that he is permanently and totally disabled. I also make the factual determination that his permanent total disability began on December 4, 2013 based upon Dr. Van Meter's report to the effect that Mr. Neeley reached maximum medical improvement on December 3, 2013.

The ALJ also awarded medical benefits pursuant to KRS 342.020, and found vocational rehabilitation benefits were not appropriate.

In its petition for reconsideration, Flat Rock argued the medical evidence does not support Neeley's complaint he cannot drive. Likewise, it argued the evidence does not support a left eye injury. It argued the ALJ erred in stating his conclusion was a factual determination. Flat Rock also argued the ALJ erred in finding Nelley totally disabled, and erred in finding vocational rehabilitation is not appropriate. Flat Rock requested the ALJ make specific findings, and provide an explanation or analysis from the evidence to support those findings.

In his order denying Flat Rock's petition for reconsideration, the ALJ stated as follows:

> On Page 12 of the original Opinion and Order in the second complete literary sentence, the Opinion and Order states that I, therefore, make the factual determination that he is permanently and totally disabled. That is a clerical error. That sentence should state that I, therefore, make the ultimate legal conclusion that the plaintiff is permanently and totally disabled, and the original Opinion and Order is altered and amended so as to state that the plaintiff Mr. Neeley is permanently and totally disabled, and that same is the ultimate legal conclusion in this case.
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> The plaintiff Mr. Neeley testified that he began his employment with the defendant on September 20, 2000, and that while working for the defendant on October 10, 2011, he sustained serious injuries to his right eye, which has

caused constant problems with his vision. He stated that he lost the vision in his right eye and experiences double and triple vision. He stated that his left eye is light sensitive. Due to his vision problems, he does not drive a motor vehicle. At the Final Hearing, Mr. Neeley testified that the last time he drove a motor vehicle was back in April, 2012 and that it is because of his vision problems that he stopped driving. Mr. Neeley testified that he cannot return to any employment.

The defendant filed the medical reports of Dr. Van Meter and in his second report Dr. Van Meter calculated the plaintiff's 17% permanent impairment to the body as a whole under the AMA Guides, Fifth Edition. In his December 3, 2013 report, Dr. Van Meter stated that in his opinion the plaintiff Mr. Neeley has reached maximum medical improvement, as per the AMA Guides.

The record shows that at the Final Hearing the parties stipulated that as a result of Mr. Neeley's work-related injuries on October 10, 2011, he will sustain under the AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition, a 17% permanent impairment to the body as a whole.

At the Final Hearing, I sat a few feet from Mr. Neeley. I carefully observed his facial expressions during his testimony. I carefully listened to his voice tones during his testimony. I carefully observed his body language during his testimony. I am the only decision maker who actually saw and heard Mr. Neeley testify. I make the factual determination that he was a credible and convincing lay witness and his testimony rang true.

This case calls to mind the Opinion of the Kentucky Court of Appeals in Jeffries v. Clark & Ward, 2007 WL 2343805 (Ky. App. 2007), where the Court of Appeals quoted from Chief Judge Overfield's Opinion in the case, in which he made the following statement . . . "It is often difficult to explain to litigants and counsel why one witness is considered credible and another is not considered credible. No doubt many of the factors related to the credibility by a trier of fact are subconscious and many are related to life experiences" (emphasis supplied). The Court of Appeals stated that it was within the Judge's sole discretion to determine the quality, character, and substance of the evidence, and the Court of Appeals did not disturb Judge Overfield's determination that one witness was not credible, despite the fact that Judge Overfield used his "life experiences" in making that determination.

In *Hush v. Abrams*, 584 S.W.2d 48 (Ky. 1979), the Kentucky Supreme Court stated that what it had in that case was lay testimony descriptive of and supportive of a permanent disability, together with medical testimony that was not in conflict with the lay testimony. The high court stated that where the medical evidence clearly and unequivocally shows the actual body condition, then the lay testimony is competent on the question of the extent of disability which has resulted from the bodily condition. The high court further stated that where there is medical testimony from which the decision maker could have concluded that the plaintiff did suffer from a work-related trauma, then, having reached that conclusion, the decision

maker could then use the lay testimony to determine the extent, if any, of the occupational disability.

In the case at bar, I carefully considered the severity of Mr. Neeley's right eye injuries and his credible and convincing lay testimony at the Final Hearing, as covered above, as well as the parties' stipulation that Mr. Neeley will sustain under the AMA Guides, Fifth Edition, a 17% permanent impairment to the body as a whole as a result of his work injuries on October 10, 2011. I also took into consideration the fact that Mr. Neeley is now 50 years of age, meaning that he is an older worker in the highly competitive job market. I also took into consideration his work history which has been at manual labor factory work from 1987 to 2011 and the fact that he has not worked at any job since October 10, 2011. I took into consideration his sworn testimony that he has lost vision in his right eye, has double and triple vision, is light sensitive in his left eye, does not drive a motor vehicle and cannot return to any employment. I took into consideration the fact that Mr. Neeley graduated from high school many years ago and has absolutely no specialized or vocational training. I took into consideration the reasonable assumption that if he went out into the highly competitive job market he would have an extremely difficult time in finding any regular gainful employment. Based upon all of those factors, I made and again make the determination that Mr. Neeley cannot find work consistently under regular work circumstance and work dependably. I, therefore, reach the ultimate legal conclusion that Mr. Neeley is permanently and totally disabled. I also make the determination

that his permanent total disability began on December 4, 2013, based upon Dr. Van Meter's evidence to the effect that Mr. Neeley reached maximum medical improvement on December 3, 2013.

Based upon the above evidence and after reviewing the complete and entire record in this case, and specifically relying upon the credible and convincing testimony of Mr. Neeley, I reached the legal conclusion that vocational rehabilitation benefits are not appropriate in this case, and the original Opinion and Order is altered and amended to so state.

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 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, 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, whether on reopening or at

> the time of an original proceeding, 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).
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> WHEREFORE, in light of the above findings of fact and conclusions of law, defendant's Petition for Reconsideration is hereby overruled and denied.

On appeal, Flat Rock argues the ALJ made no factual findings to support his decision. It argues Neeley's testimony regarding the left eye difficulty and his inability to engage in any work is not supported by the medical evidence. Flat Rock further argues the ALJ did not support his conclusion of PTD with factual findings, and merely listed the factors necessary for reaching such determination. Flat Rock further argues the medical findings do not support Neeley's allegations of debilitative photosensitivity and triple or double vision.

As the claimant in a workers' compensation proceeding, Neeley had the burden of proving each of the essential elements of his cause of action. *See* KRS 342.0011(1); Snawder v. Stice, 576 S.W.2d 276 (Ky. App. 1979). As fact-finder, the ALJ has the sole authority to determine the weight, credibility and substance of the

evidence. Square D Co. v. Tipton, 862 S.W.2d 308 (Ky. 1993). Similarly, the ALJ has the discretion to determine all reasonable inferences to be drawn from the evidence. Miller v. East Kentucky Beverage/Pepsico, Inc., 951 S.W.2d 329 (Ky. 1997); Jackson v. General Refractories Co., 581 S.W.2d 10 (Ky. 1979). 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. Magic Coal Co. v. Fox, 19 S.W.3d 88 (Ky. 2000). 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).

The function of the Board in reviewing an ALJ's decision is limited to determining 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). So long as the ALJ's ruling with regard to an issue is supported by substantial evidence, it may not be disturbed on appeal. Special Fund v. Francis, 708 S.W.2d 641, 643 (Ky. 1986).

Here the evidence may very well support an award of PTD benefits; however, as noted by Flat Rock, the ALJ failed to make specific findings of fact, and failed to provide a sufficient analysis supporting the award. Merely providing a listing of what is required to make the determination, and providing a list of considerations falls short of making findings of fact necessary to support his conclusions. Referencing observations of Neeley at the hearing, and stating a factual determination has been made does not make it so. The ALJ failed to discuss all of the medical evidence, in particular those records which address why the cataract surgery was performed for the left eye. Here the ALJ's analysis, or lack thereof, falls far short of that which is necessary to constitute a proper determination. This is especially true when arriving at the determination Neeley is permanently totally disabled due to his injury.

An analogous situation was recently addressed by the Kentucky Court of Appeals in Bluegrass Rehabilitation Center v. Edna Miles, 2013-CA-000973 (Ky. App. July 25,

2014), an unreported decision which is cited for guidance not authority. There the Court stated as follows:

> The Kentucky Workers' Compensation Act ("Act") KRS 342.0011, *et. seq.*, distinguishes between PTD and PPD benefits as follows: PTD is defined as "the condition of an employee who, due to an injury, has a permanent disability rating and has a complete and permanent inability to perform any type of work as a result of an injury[.]" KRS 342.0011(11)(c). On the other hand, "[i]f, due to an injury, an employee does not retain the physical capacity to return to the type of work that the employee performed at the time of injury, the benefit for permanent partial disability shall be multiplied by three (3) times the amount otherwise determined[.]" KRS 342.730(1)(c)(1). In determining whether an employee has suffered a permanent total disability, the ALJ is required to consider factors "such as the worker's post-injury physical, emotional, intellectual, and vocational status and how those factors interact." *Hamilton*, 34 S.W.3d at 51.
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> In awarding PTD benefits to Miles, the ALJ stated, "I make the factual determination that the plaintiff cannot find work consistently under regular work circumstances and work dependably." However, this statement is merely a recitation of the ultimate fact necessary to sustain an award of PTD. While the ALJ stated that he considered Miles's injury, age, work history, and education, his opinion contains no analysis demonstrating how he weighed those factors to reach his ultimate conclusion, as required. Indeed, the Kentucky Supreme Court has held that an ALJ must consider these factors in relation to one another:

> KRS 342.275(2) and KRS 342.285 contemplate an [ALJ] opinion that summarizes the conflicting evidence concerning disputed facts; **weighs that evidence to make findings of fact; and determines the legal significance of those findings.** Only when an opinion summarizes the conflicting evidence accurately and states the evidentiary basis for the ALJ's finding does it enable the Board and reviewing courts to determine in the summary manner contemplated by KRS 342.285(2) whether the finding is supported by substantial evidence and reasonable.

Arnold v. Toyota Motor Mfg., 375 S.W.3d 56, 61-62 (Ky. 2012) (emphasis added) (internal citations omitted).

Here, the record shows no evidence that the ALJ balanced Miles's age, work history, and education against her physical restrictions, the availability of more sedentary jobs, and her ability to perform those jobs. Instead, the ALJ's opinion is simply conclusive, stating that he considered the evidence without any explanation of how he did so. As a result, the record does not contain the evidentiary basis for the ALJ's findings so as to allow for a meaningful review of this case. We believe the Board erred in affirming the ALJ's decision, since the ALJ did not make sufficient findings to support his award of PTD benefits.

The evidence unquestionably supports a finding Neeley sustained a traumatic work injury to his right eye. The fact a traumatic injury occurred is not disputed by

Flat Rock. The records clearly outline the treatment he received for his injury, as well as his complaints. Here, other than addressing his observation of Neeley's demeanor at the hearing, the ALJ failed to provide an adequate analysis of how he reached his determination of permanent total disability. The decision failed to provide any real discussion of the evidence, findings of fact, or what the ALJ specifically relied upon in reaching his determination. As in Bluegrass Rehabilitation Center v. Edna Miles, supra, here the ALJ failed to provide the specific analysis required for reaching his determination.

It is acknowledged an ALJ has wide range discretion in granting or denying an award of PTD benefits. Seventh Street Road Tobacco Warehouse v. Stillwell, 550 S.W.2d 469 (Ky. 1976); Colwell v. Dresser Instrument Div., 217 S.W.3d 213, 219 (Ky. 2006). It is further acknowledged KRS 342.285 designates the ALJ as the finder of fact, and is granted the sole discretion in determining the quality, character, and substance of evidence. Paramount Foods, Inc. v. Burkhardt, 695 S.W.2d 418 (Ky. 1985). Likewise, the ALJ, as fact-finder, may choose whom and what to believe and, in doing so, 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 party's total proof.

Caudill v. Maloney's Discount Stores, 560 S.W.2d 15, 16 (Ky. 1977); Pruitt v. Bugg Brothers, 547 S.W.2d 123 (Ky. 1977).

However, such discretion is not unfettered. In reaching his determination, the ALJ must also provide findings sufficient to inform the parties of the basis for his decision to allow for meaningful review. Kentland Elkhorn Coal Corp. v. Yates, 743 S.W.2d 47 (Ky. App. 1988); Shields v. Pittsburgh and Midway Coal Mining Co., 634 S.W.2d 440 (Ky. App. 1982); Big Sandy Community Action Program v. Chafins, 502 S.W.2d 526 (Ky. 1973).

Here, the ALJ failed to discuss specific testimony supporting his decision and did not address all evidence necessary to reach such determination. Again, the ALJ merely provided a conclusion without providing a factual analysis which falls well short of what is necessary in reaching his decision.

On remand, the ALJ is directed to conduct an analysis in accordance with both the statutory and case law referenced above, and provide with specificity both his findings and the evidence necessary to support his determination Neeley is permanently totally disabled. Failure to do so is a manifest disservice to both Neeley and Flat Rock. The ALJ must address whether the left eye complaints are related, and why. It is noted the ALJ listed

evidence was filed from Dr. Sanders, Dr. Mackey and Dr. Huffman, but failed to address their records or findings in his determination. As we noted above, substantial evidence may very well exist supporting the ultimate determination Neeley is permanently and totally disabled, however the ALJ must provide an adequate explanation of the basis for his decision. This Board may not, and does not direct any particular result because we are not permitted to engage in fact-finding. *See* KRS 342.285(2); Paramount Foods, Inc. v. Burkhardt, supra.

Accordingly, the ALJ's determination Neeley is permanently totally disabled as set forth in the July 14, 2014 opinion and the August 15, 2014 order overruling Flat Rock's petition for reconsideration is **VACATED**. This claim is **REMANDED** for additional findings and entry of an amended opinion consistent with the views expressed herein.

FRANKLIN, MEMBER, CONCURS.

RECHTER, MEMBER, DISSENTS AND WILL NOT FURNISH A SEPARATE OPINION.

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