GEORGE P. BURBY
(Appellee)

v.

FRASER PAPERS, INC.
(Appellant)

and

SEDGWICK CLAIMS MANAGEMENT SERVICES
(Insurer)

Argued: November 19, 2014
Decided: December 17, 2014

PANEL MEMBERS: Hearing Officers: Greene, Collier, and Elwin
BY: Hearing Officer Elwin

[¶1] Fraser Papers, Inc., appeals from a decision of a Workers' Compensation Board hearing officer (*Pelletier, HO*) granting George Burby's Petition for Review and awarding him ongoing partial incapacity benefits. On appeal, Fraser Papers contends that the hearing officer erred when concluding that Mr. Burby had good and reasonable cause to refuse a bona fide offer of reasonable employment because the reason given was unrelated to the work injury or the employment. *See* 39-A M.R.S.A. § 214(1)(A) (Supp. 2013).[1]

[1] Title 39-A M.R.S.A. § 214(1)(A) provides:

> If an employee receives a bona fide offer of reasonable employment from the previous employer or another employer or through the Bureau of Employment Services and the employee refuses that employment without good and reasonable cause, the employee is considered to have voluntarily withdrawn from the work force and is no longer entitled to any wage loss benefits under this Act during the period of the refusal.

[¶2] Despite Fraser Papers' contention, we find no precedent or statutory provision that imposes a requirement that "good and reasonable cause" justifying refusal of a bona fide offer must be related to the employment or work injury. Under section 214(1)(A), the inquiry regarding the reasonableness of the refusal is broad, requiring the hearing officer to "consider all facts relevant to the employee's decision to decline the job offer." *Thompson v. Claw Island Foods*, 1998 ME 101, ¶ 16, 713 A.2d 316. The Law Court has considered and determined that nonwork-related reasons can satisfy the good and reasonable cause requirement in section 214(1)(A). *See Ladd v. Grinnell Corp.,* 1999 ME 76, ¶ 12, 728 A.2d 1275 (holding that hearing officer erred when concluding that refusal to cross picket line during strike could not, as a matter of law, constitute good and reasonable cause); *Thompson*, 1998 ME 101, ¶ 16, 713 A.2d 316 (holding that relocating away from the employer may constitute good and reasonable cause); *cf. Thompson v. Earle W. Noyes & Sons, Inc.*, 2007 ME 143, ¶¶ 10-12, 935 A.2d 663 (holding that it is not per se unreasonable to accept a lower paying job to accommodate the personal circumstance of caring for an ill spouse).

[¶3] Mr. Burby refused the offer because he asserted that working for the employer in any capacity would have negative effects on his nonwork-related psychological condition. The independent medical examiner, *see* 39-A M.R.S.A. § 312(7) (Supp. 2013), reported that Mr. Burby suffers from an "adjustment

disorder with depressive and anxious features," and expressed the opinion that it would not be in Mr. Burby's best interests from a mental, emotional, or behavioral perspective to return to work in any capacity for this employer. Based on the IME's findings, the hearing officer concluded that Mr. Burby had good and reasonable cause to refuse the employment. This conclusion falls within the bounds of the hearing officer's sound discretion. *See Thompson v. Claw Island Foods*, 1998 ME 101, ¶ 19, 713 A.2d 316, 320-21.

The entry is:

The hearing officer's decision is affirmed.

Any party in interest may request an appeal to the Maine Law Court by filing a copy of this decision with the clerk of the Law Court within twenty days of receipt of this decision and by filing a petition seeking appellate review within twenty days thereafter. 39-A M.R.S.A. § 322 (Supp. 2013).

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