

LENNA ST. LOUIS
(Appellee)

v.

ACADIA HOSPITAL CORPORATION
(Appellant)

Conference held: February 4, 2016
Decided: January 12, 2017

PANEL MEMBERS: Administrative Law Judges Collier, Elwin, and Knopf
BY: Administrative Law Judge Collier

[¶1] Acadia Hospital Corporation appeals from a decision of a Workers' Compensation Board hearing officer (*Greene, HO*) granting Lenna St. Louis's Petitions for Award of Compensation and for Payment of Medical and Related Services for work-related injuries that occurred on January 29, 2010, and January 21, 2011. Acadia Hospital contends that the hearing officer erred by not considering all factors when determining that Ms. St. Louis had good and reasonable cause to refuse a bona fide offer of reasonable employment. *See* 39-A M.R.S.A § 214(1)(A) (Supp. 2016). We agree, vacate the hearing officer's decision, and remand for further proceedings.

[¶2] Ms. St. Louis worked for sixteen years at Acadia Hospital, a psychiatric facility, providing direct patient care and supervision as a CNA. In

2010 she sustained a work injury when she was struck in the head by a patient. She left that work in August of 2013. On February 10, 2014, Ms. St. Louis was hired as a part-time cashier at a grocery store, earning \$8.00 per hour. Three days earlier, on February 7, 2014, Acadia Hospital had sent Ms. St. Louis a letter offering her a full-time position as a telephone operator and receptionist, at a pay rate of \$12.495 per hour. Ms. St. Louis testified that she rejected the offer because she had acquired a new job with which she felt more comfortable and which was closer to her home. Dr. Carlyle Voss, who examined Ms. St. Louis pursuant to 39-A M.R.S.A § 312 (Supp. 2016), opined that the job offer would be inappropriate to the extent that it involved the potential for patient assaults, but that she “could manage the basic duties” of the offered position.

[¶3] The hearing officer, assuming that Acadia Hospital’s job offer constituted a bona fide offer of reasonable employment, concluded that the new employment acquired by Ms. St. Louis on February 10, 2014, was “good and reasonable cause” to reject Acadia Hospital’s job offer, because the offer was not received by Ms. St. Louis until after she had acquired the new employment. Acadia Hospital contends it was error for the hearing officer to conclude that an acceptance of another job precludes the analysis of whether Ms. St. Louis’s refusal of a bona fide offer of reasonable employment was without good and reasonable cause.

[¶4] Section 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.

There is no dispute that the employment that Acadia Hospital offered Ms. St. Louis was a bona fide offer of employment. Accordingly, once Acadia Hospital offered this employment, Ms. St. Louis was obligated to accept that offer, absent good and reasonable cause for refusal. *Thompson v. Earle W. Noyes & Sons, Inc.*, 2007 ME 143, ¶ 7, 935 A.2d 663.

[¶5] 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.” *Burby v. Fraser Papers*, Me. W.C.B. No. 14-33, ¶ 2 (App. Div. 2014) (quoting *Thompson v. Claw Island Foods*, 1998 ME 101, ¶ 16, 713 A.2d 316). When an employee refuses post-injury employment from the employer and accepts another employment offer, the Law Court has articulated that the inquiry is whether the accepted offer constitutes reasonable employment. *Thompson v. Earle W. Noyes & Sons, Inc.*, 2007 ME 143, ¶ 11. “If the hearing officer determines that the [new] job constitutes reasonable employment under the

circumstances, then [the hearing officer] should find that [the employee] did not forfeit [the employee's] wage loss benefits.” *Id.*

[¶6] While the result reached by the hearing officer may be supportable ultimately, it is not apparent from the decision that the hearing officer conducted the required analysis and considered all facts relevant to Ms. St. Louis’s decision to decline Acadia Hospital’s job offer and accept the part-time cashier position. The only fact mentioned by the hearing officer in the analysis was the timing of the offer relative to the acceptance of the part-time cashier position. “[A]cceptance of post-injury employment is only one of the factors to be considered in determining the reasonableness of an employee’s refusal.” *Loud v. Kezar Falls Woolen Co.*, 1999 ME 118, ¶ 9, 735 A.2d 965. Acadia Hospital requested additional findings of fact and conclusions of law on this issue, so we may not infer that the hearing officer made all necessary findings to support the judgment. *Maietta v. Town of Scarborough*, 2004 ME 97, ¶ 17, 854 A.2d 223. Therefore, we vacate and remand this case for the hearing officer to conduct the required analysis.

The entry is:

The hearing officer’s decision is vacated and remanded for proceedings consistent with this decision.

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. 2016).

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