Circuit Court for Anne Arundel County
Case No. C-02-CV-16-002327

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2551

September Term, 2016

MARYLAND STATE RETIREMENT AND PENSION SYSTEM

v.

JOYCE HOLMAN

Wright,
Nazarian,
Leahy,

JJ.

Opinion by Leahy, J.

Filed: May 29, 2018

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

The Maryland State Retirement and Pension System ("RPS" or "Appellant") appeals from the decision of the Circuit Court for Anne Arundel County, which reversed the decision of the Board of Trustees of the RPS ("Trustees") to deny Ms. Joyce Holman, Appellee ordinary and/or accidental disability benefits. Ms. Holman entered a claim for permanent disability benefits after she resigned her position as a Correctional Officer Sergeant for the State Division of Correction, Maryland Department of Public Safety and Correctional Services ("DPSCS"), based on pain she suffered in her left knee after banging it on her desk at work.

The Trustees' decision to deny Ms. Holman's disability claim followed several layers of administrative review. After an Administrative Law Judge ("ALJ") at the Office of Administrative Hearings ("OAH") held a full evidentiary hearing and issued a proposed decision denying Ms. Holman's claim, the State Medical Board upheld its own prior recommendation to the Trustees denying the same claim. The Board of Trustees held an exceptions hearing, and afterward issued its decision affirming the Medical Board and the ALJ's recommendations to deny Ms. Holman's claim for permanent disability benefits.

Ms. Holman appealed to the circuit court, which vacated the Trustees' decision and remanded for further proceedings. The circuit court believed that the Trustees vis-à-vis the ALJ were too dismissive of Ms. Holman's subjective claims of pain, leading the Trustees to issue an "imperfect" decision that did not consider the cause of Ms. Holman's disability. The RPS appealed the circuit court's decision to this Court, presenting two questions,[1]

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[1] The RPS's questions presented were

which we have consolidated and rephrases as: Should the Trustees' decision be reinstated because it was supported by substantial evidence and was not arbitrary or capricious?

We conclude that the Trustees' decision was supported by substantial evidence and was neither arbitrary nor capricious. The ALJ's proposed decision, which provided a basis for the Trustees' ultimate denial of Ms. Holman's claim, assessed the credibility of the evidence presented—including the live testimony of the RPS's expert witness, the only expert to testify—and explained thoroughly why it found the RPS's position to be more credible than that of Ms. Holman. This is well within the purview of an administrative agency. Accordingly, we hold that the circuit court erred in failing to defer to the agency's factual findings and in vacating the Trustees' decision.

BACKGROUND

A. Ms. Holman's Injury & Medical Treatment

The Division of Correction of the DPSCS employed Ms. Holman as a Correctional Officer Sargent at the Maryland Correctional Institution at Jessup ("MCIJ") from August 1, 2001 until September 27, 2012. On February 13, 2012, as Ms. Holman got up from her desk in a housing unit control center, she struck her left knee on the corner of her desk. She completed work that day without reporting the incident and went home. But the next day, Ms. Holman went to Baltimore Washington Medical Center seeking treatment. X-

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1. "Does substantial evidence support the Trustees' decision?"

2. "Should the Trustees' decision be reinstated because it was not arbitrary or capricious?"

rays showed no fracture in her left knee. Ms. Holman's personnel records show she used undocumented sick leave to stay out of work on February 14, 15, and 16.

Two weeks later, on February 28, her supervisor, Lieutenant Anthony Gray observed Ms. Holman limping at work. Ms. Holman informed Lt. Gray that her limp was caused by the pain from hitting her knee on February 13. Lt. Gray reported the injury to Major Ed Burl, who ordered Lt. Gray to complete a report for the purposes of workers' compensation and to refer Ms. Holman to Concentra Medical Center ("Concentra") for an examination. Ms. Holman sought and received treatment through Concentra or an affiliate at least five times between February 29 and May 14, 2012. Doctors diagnosed Ms. Holman with a knee contusion and possible knee sprain and prescribed her Tramadol for pain, physical therapy, and a knee brace. Following two of Ms. Holman's visits, Dr. Richard D. Kinnard issued Physician Work Activity Status Reports, both indicating that Ms. Holman was fit to return to work with some restrictions, including no prolonged standing and/or walking, no squatting or kneeling, and no climbing stairs or ladders.

Ms. Holman also sought treatment from her own medical provider at least 16 times between March 15 and December 17, 2012, including 11 visits to an orthopedic surgeon and physician's assistant ("P.A."). Between March 19 and March 28, she saw her chiropractor five times. A P.A.'s examination on March 15 revealed a small amount of swelling in her left knee, tenderness to palpation, and diminished strength with extension and flexion. The P.A. listed her impressions as "[p]osttraumatic sprain/strain of the knee, posttraumantic knee contusion[]" and found "within a reasonable degree of medical

certainty that the difficulties experienced by [Ms. Holman] are directly and causally related to the injuries sustained due to the motor vehicle collision that occurred [approximately five years prior]."[2] Ms. Holman's treatment plan following that visit included electrical muscle stimulation, physical therapy, chiropractic treatments, and a therapeutic exercise program three times per week with a combined aim of "strengthening, improving range of motion, improving activity tolerance, and decreasing pain."

On March 25, 2012, Ms. Holman underwent an MRI, which revealed mild marrow edema (swelling or fluid in or around the knee) involving the medial femoral condyle, as well as mild medial soft tissue swelling, but revealed no evidence of an acute ligamentous or meniscal tear. The MRI did not reveal a definite fracture plane, but the radiologist, Dr. Nicholas Georges, observed that "it is possible the findings are posttraumatic in nature without a definite fracture plane being visualized[]" and noted "that on this single examination, the possibility of avascular necrosis[3] involving the medial femoral condyle cannot be excluded."

Four days later, Ms. Holman had her left knee evaluated by Dr. Jonathan Dunn, her aforementioned orthopedic surgeon. Dr. Dunn reported that Ms. Holman walked "with a significantly bend [sic] knee and antalgic gait[,]" that her range of motion in that knee was

[2] The record on appeal contains no further reference to the injuries Ms. Holman sustained in the earlier motor vehicle collision.

[3] Avascular necrosis is the "pathologic death of one or more cells, or a portion of tissue or organ, resulting from irreversible damage . . . due to deficient blood supply." STEDMAN'S MEDICAL DICTIONARY 1185 (27th ed. 2000).

20 to 90 degrees and "any attempt to get her [knee] up or flex beyond th[at range] causes significant discomfort[,]" and that she had "marked tenderness along the medial aspect of her knee diffusely and any attempt in motion of her patella causes discomfort medially as well." An April 26 examination showed that Ms. Holman's range of motion increased from 10 to 95 degrees with no swelling but moderate tenderness. Her exam on May 24 showed her range of motion remained restricted when she extended her left knee and that her knee was still tender to palpation. On June 14, Ms. Holman was still experiencing a diminished range of flexion and extension as well as pain and tenderness. Dr. Dunn observed on July 30 that her left knee had a "range of motion from full extension to 90 degrees of flexion[,]" but "[b]eyond that, she [wa]s in significant duress."

Upon Dr. Dunn's referral, Ms. Holman underwent another MRI of her left knee on August 2, 2012. This MRI revealed heterogeneous marrow signal (a possible hematological issue), as well as possible red marrow hyperplasia (an excess of blood cells or tissue), and could not exclude subtle bone contusions. The MRI also revealed "[v]ery small knee joint effusion" (fluid in the joint).

Ms. Holman underwent a workability evaluation with the State Medical Director's Office on September 20, 2012. In his workability evaluation issued on September 24, Dr. Mike P. Lyons of the Office of the State Medical Director noted that Ms. Holman's private physicians "ha[d] continued to recommend an off-duty status[,]" and that Ms. Holman rated her subjective pain "as a 9 on a scale of 0 to 10, with 10 representing the worst pain imaginable." When Dr. Lyons asked Ms. Holman what about her regular job she could not

do at that time, Ms. Holman responded that she "just can't do the walking[,]" and he noted that she said was "unable to run to respond to codes or restrain inmates." She indicated, however, that she hoped to be able to get back to work. Dr. Lyons's report of his examination of Ms. Holman's left knee is as follows:

> Scant joint effusion when compared to the right knee. No erythema or increased warmth. Moderate tenderness to palpation over the medial aspect of the knee. Crepitus with flexion. The patient had a full range of motion with flexion but complained of discomfort. No laxity on varus or valgus stress. McMurray's and Lachman's test negative. Without her cane, the patient walked with a pronounced limp and unsteady gait. She was unable to squat.

Based on his examination, Dr. Lyons recommended the following:

> Based upon the patient's stated history, review of the available medical records, review of the job description, and my examination, it is my opinion that [Ms. Holman] is currently unable to safely perform the full duties of a Correctional Officer Sergeant. Given her continued symptomology, the physical/safety-sensitive nature of the job, and her course of injury, it appears unlikely that her symptoms will improve enough in the foreseeable future that would enable her to safely, consistently and reliably perform the full duties of that position. Thus if the institution deems her continued absenteeism a hardship and/or interfering with the mission of the agency, then appropriate administrative steps regarding her status should be pursued.

B. Ms. Holman's Departure from MCIJ

Three days after Dr. Lyons's report, Dayena M. Corcoran, Warden of MCIJ, sent a letter to Ms. Holman, informing her that, based on Dr. Lyons's report, she was not allowed to continue working in her capacity as a Correctional Officer Sergeant. The letter informed Ms. Holman of her two options:

> 1. Provide a written list of reasonable accommodations which would allow you to return to your job. Please note that these accommodations must

> allow you to perform ALL of the essential functions of your position, therefore, you should consult your physician prior to completing your list. [or]
>
> 2. Submit a letter of resignation from State Service. If you resign in good standing, you may be eligible for reinstatement through the Office of Personnel Services and Benefits within three (3) years of your separation from State Service.

Warden Corcoran's letter noted that if Ms. Holman chose to resign, she could also "apply for disability retirement, or if eligible, service retirement[,]" and offered Ms. Holman several avenues through which she could apply to continue working for the State in a different capacity. Ms. Holman chose to resign and seek disability.

C. Ms. Holman's Continued Medical Treatment

Ms. Holman returned to Dr. Dunn on October 8, 2012. An examination showed she had a full range of motion from full extension to 130 degrees of flexion in her left knee, but that she was still experiencing tenderness. Dr. Dunn also reviewed the results from Ms. Holman's two MRIs and opined:

> I think, at this time, [Ms. Holman] needs to be referred to a hematologist/oncologist. . .. I am not sure, if her persistent pain at this time continues to be related to the initial knee contusion or is more likely, at this time, to be related to this possible marrow replacement process seen on the [August 2] MRI, now involving her tibia and femur. . . . I am going to see her back in about four weeks. Meanwhile with regards to her ability to work, I do not think that she is able to return back to full duty because light duty is not available, therefore I gave her a note to remain out of work.

Dr. Dunn's notes from Ms. Holman's December 17 visit indicate that Ms. Holman saw an oncologist or hematologist named Dr. Deluca at Dr. Dunn's referral on or about October 25. According to Dr. Dunn, Dr. Deluca felt that "the MRI findings were likely related to the initial trauma and a reactive self-turnover process. He felt that [Ms.

Holman's] mitral valve disease and chronic anticoagulation would further heighten the marrow hyperplasia." Following his discussion with Dr. Deluca and his examination of Ms. Holman on December 17, Dr. Dunn referred Ms. Holman to Dr. Aboulafia, an orthopedic oncologist, for an evaluation.[4] Dr. Dunn opined that "she has likely reached MMI [maximum medical improvement] from this initial injury. I would not expect her to continue to have the symptoms from her initial injury that she described to me. I think we need to rule out some other process." Dr. Dunn recommended that Ms. Holman "remain at sedentary duty from this point on."

Ms. Holman underwent a whole-body bone scan on February 28, 2013, over a year after banging her knee on her desk. The scan showed "[m]inimal low-grade periarticular increased uptake in the left knee[,]" which was "only seen on the delayed phase" of the scan. According to this report by Dr. Mayur Patel, this uptake "may represent post-traumatic inflammatory arthropathy or degenerative change and needs to be further correlated with the radiographs." Otherwise, Dr. Patel's report indicated that "the remainder of the exam [wa]s normal with the exception of minimal degenerative change in the upper cervical and thoracic spine."

D. The Independent Medical Evaluations

Between September 2013 and June 2014, Ms. Holman underwent three medical evaluations—one on behalf of the RPS, one on behalf of an insurer for her workers' compensation claim, and one on behalf of herself and her attorney.

[4] Ms. Holman testified before the ALJ that she never saw Dr. Aboulafia.

1. Dr. White's Report

Dr. Sarah M. White conducted an independent medical evaluation of Ms. Holman for the RPS on September 26, 2013. Dr. White concluded that Ms. Holman's complaints were exaggerated and that there was no causal relationship between her left knee pain and the injury of 12/13/12. Dr. White made the following findings:

> **Back and Lower extremities:**
> . . . She has pain with range of motion and decreased range of motion of the left knee. She can extend the left knee -5 degrees and flex 90 degrees. There is no effusion in the left knee. She is diffusely tender over the left knee, including the medial and lateral joint lines and the patella. There is no specific point [of] tenderness in the left knee. The skin is normal in color and temperature. There is no evidence of ACL, PCL, MCL, or LCL laxity. Anterior drawer, posterior drawer, Lachman, and McMurray tests are all negative. Patellar grind test is negative. She ambulates using a single point cane in her right hand. When measuring her thigh 15 cm above the superior patellar pole, the left thigh measures 37 cm and the right thigh measures 36.5 cm. There is no atrophy in the lower extremities. . . .
>
> **Nonphysiologic findings:**
> Nonphysiologic findings are present during the exam. Superficial touch over the left patella, lateral knee joint and medial knee joint all result in severe pain. While lying down, range of motion of the left knee is -5 of extension to 30 degrees of flexion. During sitting, Ms. Holman is able to flex the left knee to 90 degrees. The range of motion measurements are inconsistent when measured in the supine and sitting positions.
>
> * * *
>
> **6. Impression:**
> Left knee contusion
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> **7. Discussion:**
> Ms. Holman's self-reports of pain are out of proportion to the data provided for review, the physical findings on examination, and the imaging studies. On exam, there is no atrophy, no neurovascular compromise, no effusion, and no evidence of left knee instability. It is my opinion within a reasonable degree of medical certainty that Ms. Holman has the ability to perform full time work as a Correctional Officer Sergeant without limitations or

> restrictions. The records indicate that Ms. Holman did not report the injury that occurred on 2/13/12 until 2/28/12, which is 15 days after the occurrence. The left knee contusion seen on MRI 3/25/12 cannot be causally related to the reported injury of 2/13/12 due to the 15 day delay in reporting the injury. Based on the available information, to a reasonable degree of medical certainty, there is not a causal relationship between the left knee complaints and the injury of 2/13/12. The current complaints and the occupational injury of 2/13/12 are not related.
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> **8. A statement that you reviewed all the enclosed medical reports and job description.**
> I reviewed all the enclosed medical reports and the job description.
>
> **9. <u>OPINION</u> – Is the <u>applicant</u> permanently disabled from performing their job duties and if disabled, why? Is the disability a natural and proximate result of the accident of 2/13/12?**
> I believe that Ms. Holman's complaints are inconsistent with the mechanism of injury and the findings on the x-ray and the MRI. Her complaints are far in excess of what one would expect 19 months following a knee contusion. Nonphysiologic findings were present during the exam: superficial touch over the left patella, lateral knee joint, and medial knee joint all resulted in severe pain and range of motion measurements were inconsistent when measured in the supine and sitting positions. I do not believe that she is permanently disabled from performing her job duties. Her current complaints are not a natural and proximate result of the accident of 2/13/12.

2. Dr. O'Donnell's Report

On June 12, 2014, Dr. John B. O'Donnell examined Ms. Holman, on behalf of the Chesapeake Employers Insurance Company for Ms. Holman's workers' compensation claim. In addition to examining Ms. Holman, Dr. O'Donnell reviewed the extensive record of the procedures and examinations she had undergone on her left knee since hitting it on February 13, 2012. Dr. O'Donnell reported the following:

> On exam, there is some significant subjective overlay with this individual. When I examined her, she walked with a limp using a cane. She had a normal skin examination and no effusion. I first examined her motion and it was 43° to 88°; however, when I had her seated and made her relax her

> quadriceps, her motion went at least beyond 110^{0} (I see from Dr. Dunn's notes that she had full motion a number of times during his exams). She has 16-1/2-inches of quadriceps on the right vs. 16-1/4-inches on the left. Of note, the pseudo knee motion test with hip rotation, which is a version of a Waddell test, was positive for pain. In addition, when she states she experienced pain, she would jerk her knee back and forth, which would be very unusual in someone with intrinsic knee pain. The patella tracks centrally. She complained of pain to palpation along the medial aspect of the patella. The patella does not have any crepitation. She does not have true medial or lateral joint line tenderness. She has no hypersensitivity of the skin. She had a negative Lachman, negative anterior and posterior drawer, and no opening to varus or valgus stress. She was in neutral alignment. Due to the subjective overlay on her exam, I asked my assistant Lisa Radebaugh, C.R.N.P., to stay in the exam room to help her gather her things and prepare to leave the office in order to observe her. It was observed that when she was putting her pants on, she fully extended her left knee and flexed it beyond 120^{0}. Additionally, she went to the sink to wash her hands and was observed to walk without a limp or a cane.

Based on this, Dr. O'Donnell's impression was that Ms. Holman "still has some subjective complaints, which are out of proportion to the objective evidence[]" and concluded that she "[wa]s at maximum medical improvement for her left knee" with no additional treatment needed. Regarding Ms. Holman's level of impairment, Dr. O'Donnell opined, based on the applicable medical guidelines, that Ms. Holman had "an impairment rating of 6% (six percent) for the left lower extremity. Of this impairment rating, [he] believe[d] two-thirds [wa]s due to the work related injury of February 13, 2012 and one-third [wa]s due to age and prior subclinical trauma."

3. Dr. Macht's Report

At Ms. Holman and her attorney's behest, Dr. Robert W. Macht, a general surgeon, evaluated the condition of Ms. Holman's left knee on July 9, 2014. Contrary to doctors White and O'Donnell, Dr. Macht found that Ms. Holman suffered from a 30% permanent

impairment to her knee that was causally related to the 2/13/12 accident. Dr. Macht made the following observations in his report:

> Physical Examination: . . . There is tenderness upon palpation about the left knee. She presents with a cane in her right hand with a slight limp favoring the left leg. She has pain in the left knee with motion, resistance against active motion and attempted squatting. Mild weakness is noted. No effusion or atrophy is present. Flexion of the knee is limited to 90 degrees. She lacks 10 degrees of extension.
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> X-rays of the left knee are unremarkable.
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> Diagnosis: Traumatic injury to left knee.
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> Discussion: This patient was involved in an accident in February of 2012 injuring her left knee. This evaluation is done using the Fourth Edition of the AMA Guidelines. According to AMA Guidelines she has a 5% impairment of the left leg due to the Grade IV weakness and a 20% for the loss of extension. A bone scan obtained in February of 2013 showed minimal uptake about the left knee which may represent degenerative changes or post traumatic inflammatory changes. A March 2012 MRI scan of her knee showed mild bone marrow edema about the medial femoral condyle. There is also mild soft tissue swelling. She continues to have pain, weakness and loss of endurance and function. She has problems with prolonged walking and standing. She has stopped running, kneeling, squatting and jumping. At this time, taking all of these factors into consideration along with the AMA Guidelines, there is a 30% permanent partial impairment of her left knee and leg. This impairment is causally related to the February 13, 2012 accident. The opinions expressed in this report are based on the principle of a reasonable degree of medical certainty.

E. Ms. Holman's Disability Proceedings

On October 31, 2012, Ms. Holman submitted a Statement of Disability to the Maryland State Retirement Agency. As a result, the RPS asked Dr. White on September 9, 2013 to perform her independent medical evaluation of Ms. Holman. Following Dr. White's exam and report, *supra*, the Medical Board recommended to the Trustees that it

deny Ms. Holman's claim for accidental and ordinary disability on October 23, 2013, "since the medical evidence submitted does not support a conclusion that the member is permanently disabled or unable to perform her job duties." The RPS sent a letter to Ms. Holman, dated October 29, 2013, notifying her of the Medical Board's decision and informing her that she may submit a written request for reconsideration within 30 days or else it would close her file and terminate her disability claim pursuant to Code of Maryland Regulations ("COMAR") 22.06.03.03C(4).

In a letter dated December 2, 2013, Ms. Holman submitted her request for reconsideration to the RPS. On March 26, 2014, the Medical Board upheld its prior decision and recommended that the Trustees deny Ms. Holman's disability claim. Dr. William B. Russell, a member of the Medical Board, issued a memorandum on that same date. While noting that Dr. White's findings and conclusions were at variance with the findings by the State Medical Director, Dr. Lyons, Dr. Russell resolved that "that the medical evidence does not support a conclusion that the claimant's knee condition is the result of an injury sustained 2/13/12."

Then, on April 17, 2014, the RPS sent Ms. Holman a notice of agency action informing her that the Trustees had accepted the Medical Board's recommendation to deny her claim. The letter noted that any award of benefits by the WCC regarding her claimed injury would "not automatically entitle you to disability retirement benefits. These are two very different types of benefits, and there are different statutory provisions governing the award of Workers' Compensation benefits and disability retirement benefits."

Additionally, the letter informed Ms. Holman of her right to appeal the Trustees' decision and that if she appealed, a hearing would be scheduled at OAH before an ALJ, where she would bear the burden of proving a permanent disability that arose out of and in the course of performing her work. Ms. Holman noted her appeal of that decision in a letter dated May 15, 2014.

Meanwhile, on November 18, 2014, after holding a hearing on the issue, the Workers' Compensation Commission ("WCC") awarded Ms. Holman $162/week in permanent partial disability resulting from an 18% loss of the use of her left knee to be paid for a period of 54 weeks beginning from May 23, 2014.

F. ALJ Hearing

ALJ Robert F. Barry held a hearing on September 29, 2015. At the outset, counsel for the RPS asked for a negative inference based on several of Ms. Holman's medical records that were referenced in some of the reports and that Ms. Holman failed to produce—including Dr. Deluca's report, which Dr. Dunn's notes referenced, and a Functional Capacity Evaluation, which Dr. O'Donnell's evaluation referenced. The ALJ announced that he would "decide on what weight to give it[.]" [5]

Counsel for Ms. Holman opened by focusing on the fact that Ms. Holman lost her job based on Dr. Lyons's determination that she was physically unable to work. The RPS countered that there was a big distinction between Dr. Lyons's determination that Ms.

[5] On November 26, Ms. Holman apparently underwent a Functional Capacity Evaluation. The report stated that she gave unreliable, submaximal effort due to her reports of pain and fear that activity would cause more pain.

Holman could not go back to work immediately and a determination that Ms. Holman was permanently disabled.

Ms. Holman then testified as the only witness on her own behalf. She outlined the job duties and physical demands of a Correctional Officer Sergeant, explained how she hit her knee on her desk, and the extensive medical treatment history that followed. Following Ms. Holman's testimony, the RPS called Dr. White, who had been qualified as an expert, to testify. Dr. White reviewed Ms. Holman's medical records and her MRIs and explained that bruising has a virtual recovery rate of 100% with no resulting permanent impairment or disability. Based on the radiological findings, Dr. White testified: "As I mentioned before, there were no fractures, there were no ligament injuries, there were no meniscal tears, there were no tendon injuries. There was nothing to suggest a permanent impairment or a permanent disability from this injury." Dr. White explained the steps she took to evaluate Ms. Holman and that there was a difference between Ms. Holman's subjective complaints and Dr. White's objective findings. Dr. White testified,

> Subjective complaints could be based on an individual's perception. An example of that would be pain, that's subjective. It's not something we can measure. An objective finding is something that's measurable. We can see that in x-rays such as a fracture, we can see on MRIs. Ligament tears, we can see meniscal tears on an MRI.
>
> We can also measure objective findings on physical examination. We can measure atrophy in a leg by taking a tape measure and measuring the circumference of the side to determine whether there's muscle wasting or atrophy. Those would all be objective findings that are reproducible and measurable, quantifiable.
>
> * * *
>
> I did not find any objective findings on physical examination. I had measured her for atrophy and there was no evidence of atrophy in the leg.

Dr. White explained that the lack of atrophy was significant because after many months of walking with a cane and a limp, "[y]ou would expect . . . that there would be muscle wasting of the left side," but "there was no significant difference there. In fact, the left side was half a centimeter larger." ALJ Barry noted that he found this testimony to be "pretty enlightening." Dr. White also explained that when she measured Ms. Holman's range of motion while Ms. Holman was lying down, it was only 30 degrees of flexion, but that Ms. Holman could bend her knee 90 degrees while seated. To Dr. White, this inconsistency showed that Ms. Holman's inability to bend her knee past 30 degrees while lying down was subjective because the degree "would vary throughout the exam."

Throughout the hearing, ALJ Barry asked Dr. White questions and sought clarity on some of the impressions and conclusions that other doctors mentioned in their written evaluations. Dr. White testified that Dr. Lyons's conclusion that Ms. Holman would be unable to return to work likely relied on subjective findings: "There were no objective findings in his physical exam that he utilized to make that decision. . .. He did not cite the MRI findings to explain his reasoning. He used mostly su[bjective] findings such as the pain, complaints, and tenderness[,]" which "would all be findings in control of the patient." Dr. White also indicated that there were "no anatomical findings on physical examination, on x-rays, MRIs, or bone scan that would explain [Ms. Holman's] need for a cane." She also noted that the showing of "scant joint effusion" in Dr. Lyons's report was insignificant and that any swelling could be multifactorial.

On rebuttal, Ms. Holman refuted Dr. O'Donnell's report that his nurse observed her

put on her pants and walk to the sink; she insisted that it was painful to get dressed each day but she "ha[s] to grit the pain and bear it." Finally, the parties make their closing arguments and the hearing concluded.

G. ALJ Barry's Proposed Decision

On December 31, 2015, ALJ Barry issued the proposed decision. After presenting his findings of fact—findings which Ms. Holman adopted almost in whole in her briefing to this Court—the ALJ set out a lengthy and detailed analysis of Ms. Holman's claim and the medical evaluations on which her claim relied. ALJ Barry began by noting that he found Ms. Holman's presentation at the hearing to be

> problematic, not only because her claim of disability from banging her left knee on her desk seems implausible, but also because she did not present any expert medical opinion testimony to establish that she was disabled or that the sole proximate cause of her disability was her banging her left knee on her desk. *See Giant Food, Inc. v. Booker*, 152 Md. App. 166 (2003) (discussing the need for expert testimony on a complicated issue of medical causation). Instead of presenting expert medical opinion, [Ms. Holman] relied on her own testimony; a statement from her treating orthopedic surgeon, Dr. Dunn, that [she] could perform only sedentary work, which is not available for a correctional officer; a Workability Evaluation conducted by the State Medical Director; and a Workers' Compensation Commission award of compensation for a permanent partial disability resulting in eighteen percent loss of use of her left knee. [Ms. Holman's] own testimony cannot substitute for an expert medical opinion that she is disabled. [Ms. Holman's] reliance on Dr. Dunn's statement, the workability evaluation, and the Workers' Compensation Commission award, in lieu of expert medical testimony to prove that she is disabled, is misplaced.

Turning to the reports contained in the record, the ALJ then explained that he found the conclusions of Dr. O'Donnell and Dr. White more persuasive than that of Dr. Macht. He stated that "Dr. O'Donnell's evaluation is much more thorough than that of Dr. Macht.

Most significantly, Dr. O'Donnell found that [Ms. Holman] was magnifying her symptoms, while Dr. Macht simply accepted [Ms. Holman's] subjective complaints and made no apparent effort to determine whether [Ms. Holman] was giving full effort on the physical examination."

Regarding Dr. Dunn's statement about sedentary work, the ALJ found that "Dr. Dunn's evaluations do not support a finding that [Ms. Holman] is physically unable to perform the duties of a correctional officer." The ALJ noted that "[b]y July 30, 2012, Dr. Dunn was questioning why [Ms. Holman's] symptoms, especially the pain in her left knee, had not resolved from a knee contusion[,]" and outlined the steps Dr. Dunn took to find another potential cause of Ms. Holman's pain. Further, the ALJ referenced Dr. Dunn's notes, which indicated that "he would not expect [Ms. Holman] to have her current symptoms from the initial injury on February 13, 2012, and indicated that [Ms. Holman] likely had reached maximal medical improvement." Reading Dr. Dunn's evaluations in this context, ALJ Barry concluded that Dr. Dunn "was unable to explain with any objective medical evidence why [Ms. Holman] still had subjective symptoms of serious knee pain months after banging her knee on her desk." The ALJ also opined that he gave little weight to Dr. Dunn's statement that Ms. Holman could only do sedentary work because Dr. Dunn did not testify at the hearing.

Regarding Dr. Lyons's workability evaluation, the ALJ noted Dr. Lyons's recommendation that "it appears unlikely that [Ms. Holman's] symptoms will improve enough in the foreseeable future that would enable her to safely, consistently and reliably

perform the full duties of that position[]" and that her employer should take the appropriate administrative steps if her continued absenteeism was a problem. ALJ Barry then concluded:

> Dr. Lyons did not review any of [Ms. Holman's] X-rays or MRIs and he did not review any of her medical records other than those from Concentra. His recommendations are conclusory and reflect little more than his endorsement of [Ms. Holman's] own subjective complains of pain and her own opinion that she could not work as a correctional officer because of that pain. Dr. Lyons made no attempt to explain how [Ms. Holman] could become so symptomatic from merely banging her knee on her desk. Significantly, considering that [Ms. Holman] has the burden of proof, Dr. Lyons did not testify at the hearing. I give his recommendations little weight because they do not reflect a considered opinion based on objective medical evidence.

The ALJ was equally unimpressed by the WCC's award of permanent partial disability. The ALJ observed that the order granting the award based on an 18% impairment of the left knee "contains no explanation for the Workers' Compensation Commission's determination[,]" but instead seemed to be a compromise reached by calculating the difference between the 6% impairment that Dr. O'Donnell found and the 30% impairment that Dr. Macht found. In short, the ALJ found that the WCC's "award itself provides little support for [Ms. Holman's] argument that she is disabled; it is a bureaucratic finding, not a medical finding. Nor do the medical opinions underlying the award support [Ms. Holman's] argument that she is disabled."

Summarizing his conclusions on the written evidence submitted at the hearing, ALJ Barry found that there was no factual basis to support the conclusion that Ms. Holman could not return to work, explaining that Ms. Holman's "failure to present expert medical

[testimony] is very significant in this case, *where the mechanism of injury is unlikely to cause any lasting damage and the objective evidence does not establish any definitive injury to [her] knee*." (Emphasis added).

ALJ Barry then set out his impressions of Dr. White's testimony:

> At the hearing, Dr. White reiterated her opinion that based on the objective medical evidence [Ms. Holman] is not permanently incapacitated from performing the duties of a correctional officer. Dr. White's opinion was based on a thorough review of [Ms. Holman's] medical records and a physical examination of [Ms. Holman's] left knee, and took into consideration [Ms. Holman's] symptom magnification. Her opinion was supported by an adequate factual basis and reflected her use of reliable medical principles and methodology. *See Giant Food, Inc. v. Booker*, 152 Md. App. 166, 182-82 (2003) (discussing the qualities of an expert medical opinion). Moreover, Dr. White presented as a thoughtful, careful witness, and her opinion comports with the common sense conclusion that an individual does not become disabled by striking their knee on a desk.

(Footnote omitted).

Ultimately, the ALJ concluded "that [Ms. Holman] failed to prove that she is totally and permanently incapacitated for duty as a Correctional Officer – Sergeant at MCIJ. Therefore, [Ms. Holman] is not eligible for ordinary disability retirement benefits." (Citing Maryland Code (1993, 2015 Repl. Vol.), State Personnel & Pensions Article ("SP&P"), § 29-105(a)).

H. Ms. Holman's Exceptions and Hearing before the Trustees

On January 12, 2016, pursuant to COMAR 22.06.06.02G, Ms. Holman noted her exceptions to the ALJ's proposed decision and requested a hearing before the Board. Ms. Holman complained that the ALJ declined to reach the issue of causation and argued that "[s]he was terminated from her position as a correctional officer as a direct result of [her]

injury, due to the medical determination that she could no longer perform the extensive physical duties required of that position. As such, pursuant to [SP&P § 29-105(a)], she should be granted ordinary disability retirement." The Medical Board upheld its original decision and recommended that Ms. Holman be denied accidental and ordinary disability benefits on February 10, 2016.

On June 21, 2016, the Trustees held an exceptions hearing. Following a presentation of the ALJ's proposed decision, a report by the Medical Board, and the parties arguments, including "all related documents submitted by the parties[,]" the Trustees issued a decision letter dated June 23, 2016, affirming the Medical Board's recommendation and denying Ms. Holman's request for disability benefits. Ms. Holman appealed that decision to the Circuit Court for Anne Arundel County on July 20, 2016.

I. Ms. Holman's Appeal to the Circuit Court

On January 30, 2017, the circuit court heard argument on Ms. Holman's appeal of the Trustees' decision. Raising the same arguments as she did before the ALJ, Ms. Holman contended that there was substantial evidence in the record to support her position and that it was an error of law for the ALJ to find that she did not meet her burden of proof considering she had to stop working due to her injury.

In response, counsel for the RPS argued that the ALJ reached his decision "after reviewing all the totality of the evidence, hearing Ms. Holman testify, [and] hearing the testimony of Dr. White, who was subject to vigorous cross examination." Counsel asserted that "[s]ubstantial evidence in this case supports the Board of Trustees' finding. There

certainly can be and there [are] some findings that support Mrs. Homan's claim, but that is not the standard of review here." Finally, the RPS counsel argued that, as a matter of law, there is no need to address causation if there is no finding of disability.

At the conclusion of the parties' arguments, the court announced the following ruling from the bench:

> . . . The difficulty I'm having in reconciling this is that it seems to me that at a substantial level the Administrative Law Judge was rejecting the concept of subjective evidence out of hand. Subjective evidence, the complaints of an individual is perfectly competent evidence and the record, as far as I can tell, the Administrative Law Judge does not really articulate a credibility determination as to the Petition in this matter, but simply finds that apparent objective medical evidence trumps subjective complaints automatically, for lack of a better term.
>
> I think that, coupled with the fact that, as a result, we don't reach a causation determination on the accidental side of things, to my mind creates an imperfect decision. I'm not inclined to substitute my judgment in regards to a final determination, but I am inclined to vacate the decision and remand for rehearing due to the deficiencies in the record as to the determination of the credibility of subjective complaints, as well as causation in reference to accidental.
>
> For that reason I will vacate the Decision and remand for rehearing.

The circuit court entered its decision in a written order later that day, and the RPS noted its timely appeal to this Court on February 15, 2017.

DISCUSSION

Standard of Review

When we consider an appeal from judicial review of an agency action, we review the agency's decision directly, not the decision of the circuit court. *Reger v. Washington Cty. Bd. of Educ.*, 455 Md. 68, 95 (2017); *Halici v. City of Gaithersburg*, 180 Md. App. 238, 248 (2008). "As with the review of any administrative agency decision, this Court

looks to three things: (1) whether the agency's findings were supported by substantial evidence in the record made before the agency; (2) whether the agency committed any substantial error of procedural or substantive law in the proceeding or in formulating its decision; and (3) whether the agency acted arbitrarily or capriciously in its application of the law to the facts." *Para v. 1691 Ltd. P'ship*, 211 Md. App. 335, 354 (2013) (citing *Md. Bd. of Pub. Works v. K. Hovnanian's Four Seasons at Kent Island*, 425 Md. 482, 514 (2012)). Judge Eldridge explained in *Board of Physician Quality Assurarnce v. Banks* that

> A court's role in reviewing an administrative agency adjudicatory decision is narrow, *United Parcel v. People's Counsel,* 336 Md. 569, 576 (1994); it "is limited to determining if there is substantial evidence in the record as a whole to support the agency's findings and conclusions, and to determine if the administrative decision is premised upon an erroneous conclusion of law." . . . In applying the substantial evidence test, a reviewing court decides "whether a reasoning mind reasonably could have reached the factual conclusion the agency reached." *Bulluck v. Pelham Wood Apts.,* 283 Md. 505, 512 (1978). *See Anderson v. Dep't of Public Safety,* 330 Md. 187, 213 (1993). A reviewing court should defer to the agency's fact-finding and drawing of inferences if they are supported by the record. *CBS v. Comptroller,* 319 Md. 687, 698 (1990).

354 Md. 59, 67–69 (1999) (some internal citations omitted). When the agency reviews factual findings rendered by an ALJ based on that ALJ's assessments of credibility, 'the agency should give appropriate deference to the opportunity of the [ALJ] to observe the demeanor of the witnesses,' and the agency should reject credibility assessments **only if** it gives 'strong reasons.'" *Para*, 211 Md. App. at 355 (quoting *Kaydon,* 149 Md. App. at 693) (emphasis in *Para*).

I.

A. Review of the Agency's Decision

The RPS contends that the ALJ's conclusion, subsequently adopted by the Medical Board and Trustees—that Ms. Holman failed to prove that she was totally and permanently incapacitated from her work duties (as required by SP&P § 29-105(a)(2))—was supported by substantial evidence and, consequently, it was error for the circuit court to vacate the Trustees' decision. The RPS asserts that it was the ALJ's responsibility as the fact-finder to weigh competing evidence, including competing expert opinions. According to the RPS, "[w]here a physician relies largely on a patient's questionable self-reporting, a hearing examiner permissibly may determine that expert's opinion to be less credible than another's," after weighing the conflicting evidence. The RPS urges that the Trustees and the ALJ "properly assessed the totality of the evidence" and "weighed Dr. White's medical opinion against the other medical records on which Ms. Holman relied and reasonably concluded that Dr. White's opinion was better supported and more credible." Given the ALJ's opportunity to hear testimony from both Dr. White and Ms. Holman, in addition to record evidence of numerous physicians finding "symptom magnification," the RPS asserts that the ALJ's decision "comported with substantial evidence in determining that Ms. Holman's subjective complaints of pain did not outweigh the objective medical evidence."

Further, the RPS continues, there is no *per se* requirement that a claimant present expert testimony to support a disability claim, and Ms. Holman's failure to do so left her own subjective complaints as almost the entire basis of her claim. As to the WCC's decision, the RPS contends that the ALJ gave that decision "appropriate weight" and evaluated the medical opinions underlying that decision to conclude that it did not support

Ms. Holman's claim of permanent disability. The RPS concludes that the Trustees' decision was neither arbitrary nor capricious because they adopted the ALJ's detailed factual findings and clear reasoning after a thorough review of the record; thus, the circuit court's disagreement with those conclusions is an insufficient basis to vacate or remand the decision.

Ms. Holman responds without reference to the standard of review and frames the issue as "[w]hether the Circuit Court properly found that the Agency erred in denying the Claimant's application [for] disability benefits." Ms. Holman asserts that her medical records combined with DPSCS terminating her "based on her inability to physically perform her duties[]" satisfied the minimal showing required for ordinary disability retirement benefits under SP&P § 29-105(a). According to Ms. Holman, the Trustees should have granted her ordinary disability retirement benefits because the opinions of Dr. Macht determined she had a partial impairment, Dr. Dunn opined that she could perform only sedentary work, and the WCC determined "that she had an 18% *permanent* partial impairment to her left leg." (Emphasis in Ms. Holman's brief). Finally, she states that it was proper for the circuit court to remand the case given the ALJ's decision not to address causation.

The RPS replies that Ms. Holman "makes no attempt to disprove the [RPS]'s arguments that substantial evidence supports the Trustees' conclusion[]" and "offers no cogent legal argument or attempt to show that [the RPS]'s decision was not supported by substantial evidence."

SP&P § 29-105(a) instructs the Board of Trustees to "grant an ordinary disability retirement allowance to a member if:

> (1) the member has at least 5 years of eligibility service; and
> (2) the medical board certifies that:
> (i) the member is mentally or physically incapacitated for the further performance of the normal duties of the member's position;
> (ii) the incapacity is likely to be permanent; and
> (iii) the member should be retired."[6]

In *Terranova*, this Court faced a similar question as presented here: whether it was error for an administrative agency to deny disability benefits given the existence of conflicting expert opinions. *Terranova v. Bd. of Trs. of Fire & Police Emps. Ret. Sys. of Balt. City*, 81 Md. App. 1, 2, 11-12 (1989). Terranova challenged a decision by a hearing examiner for the Board of Trustees of the Fire and Police Employees Retirement System of the City of Baltimore that found him fit to return to his duties as a police officer, ten years after first being placed on disability retirement. *Id.* at 2-3. A police department physician and Terranova's attending physician both had determined that Terranova was completely disabled and diagnosed him as having a paranoid psychosis based on their review of available records and their examination of him. *Id.* at 3. A third physician, Dr. Potash, examined Terranova and reported to the board that Terranova was fit to return to work. *Id.* After hearing evidence and making findings of fact, a hearing examiner found

[6] Accidental benefits are available pursuant to SP&P § 29-109(b) in a narrower set of circumstances. *See, e.g.*, *Eberle v. Balt. Cty.*, 103 Md. App. 160, 167 (1995) (distinguishing similar provisions under the Baltimore County Code); and *Burr v. Md. State Ret. & Pension Sys. Of Md.*, 217 Md. App. 196, 209 (2014) (discussing *Eberle* and reasoning that a similar "distinction between ordinary disability retirement . . . and disability retirement caused by accidents" exists under State law).

Dr. Potash to be more persuasive than the two physicians who deemed Terranova completely disabled. *Id.* at 7. A panel of the board deemed Terranova fit to return to work, and he appealed that decision to the circuit court, which affirmed. *Id.* at 2, 4.

On appeal, this Court characterized the hearing examiner's determination that the third physician was more persuasive as an act of "weigh[ing] conflicting evidence, assessing the credibility of the witnesses in the process." *Id.* at 7. After setting out the standard of review, we explained:

> In the case at bar [Terranova]'s expert said that he was not fit. The police department's doctors, who partially based their opinions upon the opinion of [Terranova]'s physician, said he was not fit. Dr. Potash said, in essence, that [Terranova] was misrepresenting his condition and/or malingering, and for that reason, and other reasons stated, was fit for police employment. **The fact that the opinion of three doctors go one way and the opinion of a fourth doctor another does not make the report of that fourth insubstantial, especially when, as here, credibility of the respective physicians has played an important role in the Panel's decision.** Had the examiner found conversely, that finding also might have been supported by substantial evidence.

Id. at 11-12 (emphasis added).

This Court then announced that "'[i]f there was evidence of fact in the record before the agency, no matter how conflicting, or how questionable the credibility of the source of the evidence, the court has no power *to substitute its assessment of credibility for that made by the agency, and by doing so, reject the fact*.'" *Id.* at 12-13 (quoting *Comm'r, Balt. City Police Dep't v. Cason*, 34 Md. App. 487, 508 (1977) (emphasis in *Terranova*)). Thus, this Court concluded that "were we the finder of fact, we might well have found to the contrary, there was substantial evidence supporting the examiner's determinations[,]" reiterating that

"[t]he weighing of the evidence and the assessment of witness credibility is for the finder of fact, not the reviewing court." *Id.* at 13. *See also Fire & Police Emps.' Ret. Sys. of City of Balt. v. Middleton*, 192 Md. App. 354, 364 (2010) (relying on *Terranova* for the proposition that "[i]n preferring [one doctor's] report here, the hearing examiner shows that she found it more credible and that she viewed it as substantial.").

This Court also considered the appeal of an agency decision based on conflicting expert testimony in *Blaker v. State Bd. of Chiropractic Exam'rs*, 123 Md. App. 243, 248, 258 (1998). There, Dr. Blaker, a chiropractor, argued that there was insufficient evidence for a finding of professional incompetence because two experts had opined that he had not fallen below the applicable standard of care—while a third expert, Dr. Lavorgna, testified that Dr. Blaker had breached that standard of care. *Id.* at 251-52, 258-59. After "not[ing] preliminarily that assessing the credibility of witnesses, resolving conflicts in the evidence, and determining the proper weight to assign to the facts in evidence are tasks within the province of the fact finder[,]" this Court concluded that "Dr. Lavorgna's expert testimony *was itself* sufficient evidence of Dr. Blaker's professional incompetency." *Id.* at 259-60 (emphasis added). This Court reasoned that, "[i]n its role as fact-finder, the Board was free to accept or reject, in whole or in part, the evidence before it." *Id.* at 259.

This Court's decision in *Eberle*, *supra*, is the sole case on which Ms. Holman relies. In that case, the Board of Appeals of Baltimore County determined that a county worker who had injured his knees at work was entitled to ordinary disability benefits but not accidental disability benefits. 103 Md. App. at 162-63, 166. Several medical reports

submitted to the Board of Appeals—including those submitted by Eberle—referenced a degenerative arthritic condition that Eberle suffered *before* he began working for Baltimore County. *Id.* at 164-65. "Based on these medical reports and the testimony before it, the Board of Appeals was unable to conclude or find as a matter of fact that Eberle's permanent disability" was the natural and proximate result of his workplace accidents required for him to receive accidental disability retirement benefits. *Id.* at 165. This Court upheld the Board of Appeals' decision, emphasizing the difference between ordinary and accidental disability benefits, noting that ordinary benefits "require[] only a minimal showing of permanent incapacitation for further performance of duty[,]" while the standard for accidental benefits is "more stringent" and "it is more difficult to qualify for accidental disability retirement benefits." *Id.* at 166-67.

Ms. Holman takes the "minimal showing" statement in *Eberle* to mean that she surely met her burden of proof before the agency. We disagree. Applying the teachings of *Terranova* and *Blaker*, we conclude that there was substantial evidence to support the ALJ's findings, as adopted by the Trustees, that Ms. Holman was not permanently disabled. The ALJ heard testimony from Dr. White that Ms. Holman's diagnosis of bruising has virtually a 100% recovery rate and would not have resulted in permanent disability. The ALJ stated explicitly that he found Dr. White to be a "thoughtful, careful witness," and that her opinion "comport[ed] with [] common sense[.]" Because Dr. White was the only expert to testify, the ALJ relied heavily on Dr. White's interpretations of the other doctors' reports. She explained, apparently to the satisfaction of ALJ Barry, that there was no objective

evidence contained in any report "to suggest a permanent impairment or a permanent disability from this injury." The ALJ also credited Dr. White's testimony explaining that the lack of atrophy in Ms. Holman's left leg demonstrated that her subjective pain did not coincide with the objective data. As was the case in *Blaker*, Dr. White's testimony standing alone was sufficient evidence on which the ALJ, and in turn the Trustees, could rest their decision. *See* 123 Md. 259-60.

In addition to Dr. White's testimony, the ALJ also considered Dr. O'Donnell's similar findings of Ms. Holman's overlay of subjective pain. He considered how these findings and the testimony of Dr. White aligned with Dr. Dunn's observations that a contusion caused by Ms. Holman striking her knee was unlikely to cause the amount of pain she claimed so many months after injury. At the evidentiary hearing before the ALJ, Ms. Holman did not present an alternative diagnosis or theory of why the initial bruising could linger so long. Proving the permanency of her disability was Ms. Holman's burden. Faced with conflicting evidence, it was the province of the agency to resolve the conflict and the circuit court had *no power* to reject the agency's finding of fact. *See Terranova*, 81 Md. App. at 12-13; *see also Balt. Lutheran High Sch. v. Emp. Sec. Admin.*, 302 Md. 649, 663 (1985) ("[N]ot only is it the province of the agency to resolve conflicting evidence, but where inconsistent inferences from the same evidence can be drawn, it is for the agency to draw the inferences.") (citation omitted); *Middleton*, 192 Md. App. at 365 ("The inferences drawn by the hearing examiner are supported by a fair reading of the record."). This is true even if, as Ms. Holman maintains, there may have been substantial

evidence to support the opposite finding. *See Terranova*, 81 Md. App. at 11-12. Accordingly, we hold that the Trustees' decision was supported by substantial evidence. In conclusion, we hold that the circuit court invaded the purview of the Trustees by second-guessing the weight that the ALJ and the Trustees' gave to Ms. Holman's subjective claims of pain.

B. Reasonable Application of the Law

As for Ms. Holman's suggestion that it was error as a matter of law for the Trustees to deny her *permanent* disability claim after the WCC issued her a *temporary* disability award, she cites to no law, nor can we find any to support this proposition. Although, in certain circumstances an award of ordinary disability benefits may be based on the same injury as a WCC award, it is not always the case. *Cf. Reger,* 455 Md. at 120-21 (explaining that an injured worker *may* receive ordinary disability benefits for the same injury that he received workers' compensation benefits (subject to the offset provision in Maryland Code (1991, 2008 Repl. Vol.), Labor and Employment Article, § 9-610) if the record reflects that the two awards were based on "the same workplace accidental injury or occupational disease"). A WCC award does not prevent the Trustees from denying a permanent disability claim based on the facts presented—nor does the MCIJ's decision to ask Ms. Holman to resign based on her knee pain. A closer look at Dr. Lyons's recommendation to MCIJ is nevertheless revealing. He suggested that MCIJ take administrative steps to change Ms. Holman's status "*if the institution deems her continued absenteeism a hardship* and/or interfering with the mission of the agency[.]" (Emphasis added). He did not

explicitly find that Ms. Holman's incapacity "is likely to be permanent," as required by SP&P § 29-105.

Because we find that there was substantial evidence to support the Trustees' findings and that their decision was a reasonable application of the law to those facts, we cannot say that the Trustees' denial of Ms. Holman's claim was arbitrary or capricious. It was therefore error for the circuit court to vacate the Trustees' decision.

JUDGMENT OF THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY REVERSED. COSTS TO BE PAID BY APPELLEE.