

CASE NO. 6537 CRB-2-24-3  
CLAIM NOS. 200205999 & 200206200

: COMPENSATION REVIEW BOARD

SHAWNA ZITO-HANNAN,  
SURVIVING SPOUSE OF MICHAEL  
HANNAN, DECEASED  
CLAIMANT-APPELLANT

: WORKERS' COMPENSATION  
COMMISSION

v.

: MAY 20, 2025

ELECTRIC BOAT CORPORATION  
SELF-INSURED  
EMPLOYER  
RESPONDENT-APPELLEE

APPEARANCES:

The claimant was represented by Robert B. Keville, Esq.,  
Suisman, Shapiro, Wool, Brennan, Gray & Greenberg,  
P.C., P.O. Box 1591, New London, CT 06320.

The respondent was represented by Peter D. Quay, Esq.,  
Law Office of Peter D. Quay, L.L.C., P.O. Box 70,  
Taftville, CT 06380.

This Petition for Review from the March 14, 2024 Finding  
and Dismissal of Zachary M. Delaney, Administrative Law  
Judge acting for the Second District, was heard on  
September 27, 2024 before a Compensation Review Board  
panel consisting of Chief Administrative Law Judge  
Stephen M. Morelli and Administrative Law Judges David  
W. Schoolcraft and William J. Watson III.

# OPINION

STEPHEN M. MORELLI, CHIEF ADMINISTRATIVE LAW JUDGE. The claimant has petitioned for review from the March 14, 2024 Finding and Dismissal of Zachary M. Delaney, Administrative Law Judge acting for the Second District (decision). We find no error and accordingly affirm the decision.<sup>1</sup>

The administrative law judge identified two issues for determination:

(1) compensability pursuant to General Statutes § 31-275 (1)<sup>2</sup> and (2) survivor's benefits pursuant to General Statutes § 31-306.<sup>3</sup> The following factual findings are pertinent to our review. The claimant, the decedent's dependent spouse, was married to the decedent on September 19, 2006. The decedent was hired by the respondent in 1980 and, except for a brief separation in employment in 1981, was continuously employed by the respondent until his death. In August 2019, the decedent began traveling to Cape Canaveral, Florida, where he worked as a design technician at the Missile Control Center Module (MCCM). Generally, he would fly to Florida for two weeks at a time and return home for one week; while on assignment in Florida, he would work six days a week.

Alan Blay, the program manager for the respondent's strategic weapons system, testified at deposition and at formal proceedings. Blay indicated that the decedent, who had been Blay's employee for approximately ten years and was assigned to the Florida

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<sup>1</sup> We note that two motions for extension of time and one motion for continuance were granted during the pendency of this appeal.

<sup>2</sup> General Statutes § 31-275 (1) provides in relevant part: "Arising out of and in the course of his employment' means an accidental injury happening to an employee or an occupational disease of an employee originating while the employee has been engaged in the line of the employee's duty in the business or affairs of the employer upon the employer's premises, or while engaged elsewhere upon the employer's business or affairs by the direction, express or implied, of the employer ...."

<sup>3</sup> General Statutes § 31-306 (a) provides in relevant part: "Compensation shall be paid to dependents on account of death resulting from an accident arising out of and in the course of employment or from an occupational disease ...."

project by Blay, was put in charge of beginning the construction process at the MCCM. Blay also testified regarding the respondent's travel policy, stating that because the duration of the decedent's position in Florida was anticipated to last more than thirty days, it qualified as an extended work assignment, or EWA, thereby entitling the decedent to a 15 percent increase in pay plus prepaid expenses. Alternatively, regular business travel for the respondent paid a per diem and required expense reports for the reimbursement of travel expenses. Although the decedent was offered the Florida position as an EWA, he requested instead that it be designated as regular business travel.

Lawrence Jarbeau, an engineering supervisor for the respondent, also testified at deposition and at formal proceedings. Jarbeau, who became the decedent's direct supervisor in August 2018, explained that the decedent's responsibilities included sketching and using computer-aided design to translate information into a real-life model at the MCCM.<sup>4</sup> Jarbeau testified that when the decedent was in Connecticut, he worked at the respondent's facility in Shaw's Cove, New London. Jarbeau also testified that the decedent had declined to accept the assignment on an EWA basis because he was concerned about his mother's health and wanted to be able to return home when necessary.

The decedent began treating with Brian S. Ehrlich, a cardiologist, on May 10, 2013; Ehrlich diagnosed the claimant as suffering *inter alia* from hypertension, heart disease, and a previous "mild aortic insufficiency and dilated aortic root, secondary." Claimant's Exhibit D [May 10, 2013 intake note, p. 2]. Ehrlich recommended the decedent undergo an echocardiogram and schedule a one-year

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<sup>4</sup> Jarbeau explained that the actual construction of the system was carried out by a subcontractor.

follow-up appointment. The echocardiogram was performed on May 28, 2013, and the decedent presented to Ehrlich for a follow-up appointment on May 13, 2014. At that time, Ehrlich reported diagnoses similar to those found in 2013, suggested a program of regular exercise and weight loss, and recommended the decedent schedule another echocardiogram.

On May 19, 2014, the decedent underwent an echocardiogram; at an office visit on May 18, 2015, Ehrlich again noted the same diagnoses he had previously reported and stated that the most recent echocardiogram “was unchanged with ... mild aortic stenosis/aortic insufficiency.” *Id.* [May 18, 2015 office note, p. 1.] He recommended the decedent undergo an echocardiogram and indicated that going forward, the test could be repeated every other year provided there were no changes.<sup>5</sup>

An echocardiogram was performed on June 12, 2015; on July 15, 2016, the decedent presented to Jon C. Gaudio, a cardiologist, who reported that the decedent’s aortic root dilation had increased slightly. He recommended the decedent repeat the echocardiogram and continue his exercise and lifestyle “as is.” Claimant’s Exhibit E, p. 10. On July 15, 2016, the decedent underwent an echocardiogram; on July 27, 2017, Ehrlich stated that the most recent study had not demonstrated any “significant changes,” Claimant’s Exhibit F, p. 20, and the decedent’s blood pressure was “at goal.” *Id.*, 21.

On October 25, 2017, the decedent presented to his primary care provider; the progress notes for that encounter state that the decedent was put on a low dose (five

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<sup>5</sup> In his office note of May 18, 2015, Ehrlich stated that the decedent’s “murmur [was] somewhat more intense than noted previously. Significance uncertain.” Claimant’s Exhibit D [May 18, 2015 office note, p. 2].

milligrams) of Lisinopril and he was also instructed to discuss his blood pressure with his cardiologist.

The decedent did not undergo an echocardiogram in 2017.<sup>6</sup> On August 1, 2018, he again presented to Ehrlich, who noted that the 2016 echocardiogram had demonstrated mild to moderate aortic insufficiency. Ehrlich recommended the decedent schedule another echocardiogram, which was performed on August 30, 2018. On November 25, 2019, the decedent was seen by Pradnya Velankar, a cardiologist affiliated with Ehrlich's practice.<sup>7</sup> Velankar noted inter alia that the decedent's blood pressure was elevated and encouraged him to exercise, modify his diet and lose weight. She also reviewed the August 30, 2018 echocardiogram results, noting that the study demonstrated moderate aortic stenosis and moderate aortic regurgitation.<sup>8</sup> She recommended the decedent repeat the echocardiogram the following year.

On December 30, 2019, the decedent presented to his primary care provider, who reported that the decedent's blood pressure was elevated and he had gained ten pounds.<sup>9</sup> His Lisinopril dosage was increased to ten milligrams and it was recommended that he continue with his efforts to exercise and lose weight. The decedent informed this

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<sup>6</sup> In his progress note of August 1, 2018, Ehrlich indicated that the decedent canceled his echocardiogram in 2017 "because of a large deductible requirement." Claimant's Exhibit H.

<sup>7</sup> The partial report for the decedent's office visit with Velankar on November 25, 2019, which was submitted into the record as Claimant's Exhibit J, does not reference the name of the attending physician; however, at formal proceedings held on November 7, 2022, claimant's counsel introduced the report as the "medical records of Pradnya Velankar, M.D." November 7, 2022 Transcript, p. 8.

<sup>8</sup> We note that in her report of November 25, 2019, Velankar stated that the August 30, 2018 echocardiogram demonstrated that "the peak aortic valve velocity [had] increased since the echocardiogram performed on July 29, 2016." Claimant's Exhibit J.

<sup>9</sup> The time frame for the decedent's weight gain was not mentioned by the provider. Our review of the record indicates that the January 25, 2019 note from the Yale New Haven Health Niantic walk-in center lists the decedent's blood pressure at 142/92 and his weight at 256 pounds; the December 30, 2019 after-visit summary for Yale New Haven Health NE Primary Care lists his blood pressure at 150/88 and his weight at 262 pounds. See Respondent's Exhibit 7, pp. 119, 155.

provider that “things have been good in general” but he had gone through “a tough time” when his mother had passed away the month before. Claimant’s Exhibit K, p. 145.

On February 14, 2020, the decedent completed a two-week assignment in Florida and the claimant joined him to celebrate an anniversary. They flew back to Connecticut on February 17, 2020, and the decedent returned to Florida on February 24, 2020, for a three-day assignment. He returned home on February 26, 2020, where he had dinner with the claimant and retired to bed early. He subsequently experienced a cardiac event and died in his sleep on February 27, 2020. The death certificate listed cause(s) of death as: (1) hypertensive heart disease; (2) hyperlipidemia; (3) tobacco abuse; and (4) thoracic aortic aneurysm.

At trial, the claimant testified that in the weeks leading up to the decedent’s death, “he had gained weight and was generally very tired.” Findings, ¶ 23. She indicated that the decedent’s mother, with whom the decedent had a close relationship, had passed away in November of 2019, and she first noticed the changes in the decedent “around the holidays” during the following December. November 7, 2022 Transcript, p. 39.

Peter S. Milstein, a cardiologist, performed a records review at the request of the claimant. In his report of November 16, 2020, Milstein opined that “psychological stress and physical stress ... were substantially contributory to Mr. Hannan’s sudden death.” Claimant’s Exhibit R. At deposition, Milstein agreed with claimant’s counsel that the traveling and long hours necessitated by the decedent’s employment “placed additional stressors on his heart,” Claimant’s Exhibit V, p. 9, and stated that “[a]ssuming he was under significant stress from the travel and the long hours, that would increase his risks, his cardiac risks.” *Id.* Milstein explained that while the employment did not directly

cause the decedent's death, it did result in the decedent experiencing stress, which, in his opinion, was the cause of death. Milstein also opined that the decedent's employment did not cause the development of his aortic stenosis, but, rather, that the heart disease constituted a pre-existing condition.<sup>10</sup> Under cross-examination, Milstein agreed that no "sudden physical component" was involved in the decedent's death but stated that the effects of his frequent travel were "physically difficult" and "cumulative." *Id.*, 23.

William M. Bradbury, a clinical cardiologist, performed a records review for the respondent. At deposition, Bradbury testified that the decedent, who had been diagnosed with progressive aortic stenosis, passed away after experiencing a sudden cardiac event while he was sleeping. He reviewed the decedent's echocardiograms, noting that the stenosis progressively worsened between 2013 and 2018 and advanced from mild to moderate at some point between 2016 and 2018. Bradbury also noted that the decedent was not tested in 2019 or 2020. Bradbury reviewed the decedent's autopsy report and explained that the finding of valve calcification is associated with stenosis progression and the thickened ventricle occurs when "each [heart]beat has to work harder to push the blood out through a narrowing orifice."<sup>11</sup> Respondent's Exhibit 10, p. 20. Bradbury also

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<sup>10</sup> Given that the respondent's personnel records indicate that the decedent was hired in 1980, it may be reasonably inferred that Milstein meant the decedent's heart disease was pre-existing when he began traveling back and forth to Florida in August 2019. See Respondent's Exhibit 1, p. 7.

<sup>11</sup> The autopsy report stated *inter alia*: "Based on the gross and microscopic findings, the most probable cause of death for this patient is a sudden cardiac death due to cardiomegaly that resulted from aortic and mitral valve disease, which was caused by atherosclerotic and hypertensive cardiovascular disease.... The association of an enlarged left ventricle with sudden cardiac death is well established, and having left ventricular hypertrophy has been shown to be an independent predictive factor for increased mortality from sudden cardiac death in multiple studies, even in patients with a normal left ventricular ejection fraction.... Additionally, the likelihood of a person dying of sudden cardiac death [is] increased when they have risk factors such as valvular disease, hyperlipidemia, obesity, and history of cigarette use...." Respondent's Exhibit 6, pp. 2-3.

opined that the autopsy finding of vascular congestion was “proof of fluid and blood in the lungs from heart over-work” and signified heart failure. Findings, ¶ 50.

Bradbury opined that the decedent’s employment was not a significant contributing factor to his heart condition and his death was due to progressive aortic stenosis rather than psychological or physical stress. Bradbury explained that although “a trigger event” could cause a cardiac episode, it would be “difficult to prove or quantify emotional stress and its effect on Mr. Hannan’s disease.” Findings, ¶ 51. Finally, Bradbury stated that although he would have counseled the decedent to lose weight and lower his blood pressure, he would not have advised him to stop working.

At the request of the respondent, the decedent’s records were reviewed by Marc A. Rubenstein, a psychiatrist. Rubenstein opined that although “it seems possible, perhaps even probable that stress due to his travel, in a man as vulnerable as he was, was a contributing factor,” Claimant’s Exhibit W, p. 4, he ultimately concluded that he “could not say with reasonable medical certainty that work/travel related stress was or was not a significant contributor to his sudden death.” Id., 3. Merrill Mathew, another psychiatrist, also conducted a records review at the request of the respondent. Mathew stated that although “stress and its effects are subjective,” Findings, ¶ 61, the decedent “did not report any work-related stress, and there were no indications of work-related stress in the treatment notes that were provided to me.”<sup>12</sup> Respondent’s Exhibit 12, p. 4.

Having reviewed the foregoing evidentiary submissions, the administrative law judge found that neither the decedent’s treating cardiologists nor his primary care providers reported that the decedent was experiencing work-related stress or advised him

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<sup>12</sup> Mathew further noted “that the medical documentation provided did not note any stressors but for Mr. Hannan’s mother’s passing.” Findings, ¶ 61.

to reduce or change his work-related travel schedule. The trier also noted that the decedent's employment in Florida did not require "high-demand physical responsibilities" and the decedent did not experience any "sudden or unusual work stressors leading up to his death." Conclusion, ¶¶ O, P.

The trier found credible the testimony offered by Jarbeau and Blay. He also found persuasive the expert opinions offered by Milstein and Bradbury indicating that "no sudden physical component ... led to [the decedent's] death," Conclusion, ¶ S, and that the decedent's heart disease was not caused by his employment. Finally, he found persuasive the opinions offered by Rubenstein and Mathew. Accordingly, he dismissed the claim on the basis that the decedent did not experience "work-induced stress that was a substantial contributing factor to his heart disease and death." Order, ¶ 1.

The claimant filed a motion to correct which was denied in its entirety, and this appeal followed. On appeal, the claimant contends that the conclusions reached by the administrative law judge resulted from illegal or unreasonable inferences drawn from the subordinate facts. The claimant also argues that the trier, in "[substituting] his own judgment for that of the medical professionals," Appellant's Brief, p. 18, incorrectly applied the law to the subordinate facts, thereby rendering a conclusion which was "arbitrary and capricious." *Id.* We do not find these claims of error meritorious.

The standard of appellate review we are obliged to apply to a trial judge's findings and legal conclusions is well-settled. A trier's "factual findings and conclusions must stand unless they are without evidence, contrary to law or based on unreasonable or impermissible factual inferences." Russo v. Hartford, 4769 CRB-1-04-1 (December 15, 2004), *citing* Fair v. People's Savings Bank, 207 Conn. 535, 539 (1988).

Moreover, “[a]s with any discretionary action of the trial court, appellate review requires every reasonable presumption in favor of the action, and the ultimate issue for us is whether the trial court could have reasonably concluded as it did.” Burton v. Mottolese, 267 Conn. 1, 54 (2003), *quoting* Thalheim v. Greenwich, 256 Conn. 628, 656 (2001).

We begin our analysis with the claimant’s contention that the administrative law judge, in concluding that the decedent’s employment was not a substantial contributing factor to his death, drew improper inferences from the evidentiary record. The claimant points out that in Birnie v. Electric Boat Corp., 288 Conn. 392 (2008), our Supreme Court held that “the substantial factor standard is met if the employment ‘*materially or essentially contributes* to bring about an injury....’” (Emphasis in the original.) *Id.*, 412, *quoting* Norton v. Barton’s Bias Narrow Fabric Co., 106 Conn. 360, 365 (1927). The Birnie court explained that:

[t]he term “substantial” ... does *not* connote that the employment must be the *major* contributing factor in bringing about the injury; ... nor that the employment must be the *sole* contributing factor in development of an injury.... In accordance with our case law, therefore, the substantial factor causation standard simply requires that the employment, or the risks incidental thereto, contribute to the development of the injury in *more than a de minimis way*. (Citations omitted, emphasis in the original.)

*Id.*, 412-13.

However, it should be noted that in Sapko v. State, 305 Conn. 360 (2012), our Supreme Court revisited the language discussing the substantial contributing factor test in Birnie and stated that a full reading of the passage in question should make it “evident that we did not intend to lower the threshold beyond that which previously had existed.” *Id.*, 391. The court then went on to observe that in Birnie, the court:

was confronted with determining whether the substantial factor test was more or less rigorous than the test applied by federal administrative law judges in adjudications involving the federal law. As a result, it is clear that the court's aim was not to clarify – much less alter – the substantial factor test but to explicate it in such a way as to facilitate a fair comparison with the federal test in question.

Id., 391.

Therefore, when assessing causation, it remains axiomatic that:

The essential connecting link of direct causal connection between the personal injury and the employment must be established before the act becomes operative. The personal injury must be the result of the employment and flow from it as the inducing proximate cause. The rational mind must be able to trace resultant personal injury to a proximate cause set in motion by the employment and not by some other agency, or there can be no recovery.

Fair v. People's Savings Bank, supra, 207 Conn. at 545-46, quoting Stulginski v. Waterbury Rolling Mills Co., 124 Conn. 355, 360–61 (1938).

In the present matter, the claimant points out that Bradbury testified that “the cumulative stresses of Mr. Hannan’s employment were a contributory factor,” Appellant’s Brief, p. 6, but “simply could not quantify the extent to which they were a factor ....” Id., 7. As such, the claimant argues that Bradbury’s reluctance to state that these cumulative stresses “were insignificant on their face would [imply] that they were more than *de minimis*.” (Emphasis in the original.) Id. The claimant further contends that Bradbury’s testimony in this regard “bolsters” rather than refutes Milstein’s opinion reflecting that both psychological and physical stress substantially contributed to the claimant’s death. Id. In addition, the claimant argues that Rubenstein’s report of January 28, 2022, wherein the doctor opined that it was “possible, perhaps even probable” that the stress associated with the decedent’s frequent travel, combined with his heart condition, suggests that stress constituted more than a *de minimis* contributing

factor to his death. Claimant's Exhibit W, p. 4. We disagree with the claimant's characterization of the opinions offered by Bradbury and Rubenstein.

We note at the outset that Bradbury, in his report of April 22, 2021, specifically challenged Milstein's opinion that the stress associated with the decedent's employment constituted a substantial contributing factor to his death, and that "[t]he emotional stress hastened and allowed the malignant arrhythmia to occur in the substrate of hypertensive heart disease and left ventricular hypertrophy."<sup>13</sup> Claimant's Exhibit R. Bradbury stated:

There [is] positive and negative psychological stress.... I do not have a record saying that the patient died while exerting himself to suggest physical stress was a trigger. It is very difficult to quantitate emotional stress as being either positive or negative in the natural history of disease, let alone causing death. The doctor is assuming the patient died of only an arrhythmia, which is reasonable, but the lethal substrate was established by progressive aortic stenosis.

Respondent's Exhibit 4, p. 4.

At deposition, Bradbury again discounted the role cumulative emotional stress might have played in the decedent's death, agreeing with respondent's counsel that "the evidence doesn't support that stress worsens the stenosis." Respondent's Exhibit 10, p. 34. He testified that the only "triggers that we do know are things like sudden exertion where we know that raises your blood pressure very high when you exert yourself and that can translate into a cardiac problem, either valve decompensation or a cardiac

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<sup>13</sup> We note that in the November 1, 2020 correspondence from claimant's counsel to Milstein, claimant's counsel stated that the decedent "had a substantial amount of responsibility in overseeing this project and was under a significant amount of stress." Claimant's Exhibit V [Claimant's Exhibit B, p. 1]. However, as the respondent points out, neither Jarbeau nor Blay testified that the decedent bore an inordinate amount of responsibility for the Florida project. Rather, Blay stated that the decedent worked as part of a team and had no supervisory responsibilities, while Jarbeau stated that the responsibility for completing the project "really fell on [his] or Mr. Blay's shoulders," February 23, 2023 Transcript, p. 32, although the decedent "definitely contributed to the project's success." *Id.* Jarbeau also indicated that "the expectations for someone building a tactical submarine would be much higher than somebody building a mock-up down at SWS Ashore." Claimant's Exhibit T, p. 32.

arrhythmia.” Id., 30. Bradbury acknowledged that a highly emotional interaction could also act as a trigger, explaining that if the decedent “was at work and got into a scuffle or fight with a person and had a shouting match and came to blows or something which was really stressful, we’ve seen people drop dead with aortic stenosis from those kinds of encounters.” Id., 25. However, the record is devoid of any evidence that the decedent experienced such a stressful encounter either immediately prior to his death or at any other time relevant to this appeal.<sup>14</sup>

In addition, Bradbury repeatedly stated that it was impossible to quantify the effects of any purported work-related stress on the decedent and, as such, it was impossible to know whether this stress constituted a significant or insignificant factor. When queried by claimant’s counsel as to whether “prolonged work hours, a lot of travel, being away from home, all those things, would ... add additional stresses,” Bradbury replied, “I wouldn’t know how to measure that. I wouldn’t even be able to quantitate it. I mean, that’s half of America.”<sup>15</sup> Respondent’s Exhibit 10, p. 41. Bradbury explained that there is currently no known treatment to stop the progression of aortic stenosis and the decedent was “a sudden death waiting to happen.” Id., 37. Bradbury further opined that the decedent suffered from “an abnormal heart condition that progressed over time

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<sup>14</sup> In fact, our review of the record indicates that, apart from the claimant’s testimony relative to the decedent displaying some “uncharacteristically irritable” behavior when he returned home on the evening before his death, Appellant’s Brief, p. 2, the decedent was described by Blay as “a very highly productive employee. He was pleasurable to work with, a very friendly person, eager to help.” Claimant’s Exhibit S, p. 13. Jarbeau described the decedent as “conscientious,” “committed to doing a good job,” and “proud of the work that he did.” Claimant’s Exhibit T, p. 43.

<sup>15</sup> At deposition, claimant’s counsel queried Bradbury as follows relative to the decedent’s purported work-related stress: “So it was a factor of some degree, we just don’t know the degree to which it [was] a factor?” Respondent’s Exhibit 10, pp. 44-45. Bradbury replied: “Correct. Just like the quality of the air that he breathes.” Id., 45.

and resulted in sudden death while sleeping. And that would have happened wherever he worked.... The employment itself wouldn't cause that progression of disease." *Id.*, 23.

With regard to Rubenstein's opinion, we note at the outset that the doctor, in his report of January 28, 2022, did remark that "it seems possible, perhaps even probable, that stress due to his travel, in a man as vulnerable as he was, was a contributing factor." Claimant's Exhibit W, p. 4. However, he also stated that he "could not say with reasonable medical certainty that work/travel related stress was or was not a significant contributor to his sudden death." *Id.*, 3. Given that the trier found Rubenstein's opinion persuasive, it may be reasonably inferred that he assigned more evidentiary weight to Rubenstein's professed lack of certainty regarding causation than he did to the doctor's imprecise statement involving possibility and/or probability.

Nevertheless, citing Milstein's affirmative opinion, Rubenstein's use of the words "possible, even probable," and Bradbury's statement that he could not quantify the impact stress may have had, the claimant argues that the administrative law judge misapplied the law when he concluded that work-related stress did not constitute a substantial contributing factor to the decedent's death. We disagree.

As referenced previously herein, the trier specifically found Milstein credible on two issues: (1) "there was no sudden physical component that led to Mr. Hannan's death"; and (2) the decedent's "heart disease was not caused by his employment at Electric Boat." Conclusion, ¶¶ S, T. He did not find Milstein's opinion persuasive on the issue of whether the decedent had experienced work-related stress which constituted a substantial contributing factor to his death. This determination was well within his discretion, given that "[i]t is the quintessential function of the finder of fact to reject or

accept evidence and to believe or disbelieve any expert testimony.... The trier may accept or reject, in whole or in part, the testimony of an expert.” (Internal citations omitted.) Tartaglino v. Dept. of Correction, 55 Conn. App. 190, 195 (1999), *cert. denied*, 251 Conn. 929 (1999).

In addition, given the equivocal language used by Bradbury and Rubenstein, and cited by the claimant as evidence of the possibility that stress may have contributed to some degree, the administrative law judge was under no compunction to draw the inference sought by the claimant; i.e., to conclude that work-related stress constituted a substantial contributing factor to the decedent’s death. For example, the administrative law judge could reasonably have concluded that when Bradbury said it was impossible to quantify the role of stress, he meant it was impossible for *any* medical expert to do so, not just that he could not form an opinion.

It is axiomatic in our forum that “the injured employee bears the burden of proof, not only with respect to whether an injury was causally connected to the workplace, but that such proof must be established by competent evidence.” (Emphasis omitted.) Dengler v. Special Attention Health Services, Inc., 62 Conn. App. 440, 447 (2001), *quoting Keenan v. Union Camp Corp.*, 49 Conn. App. 280, 282 (1998). It was not the respondent’s obligation to provide unequivocal opinions that work stress was not a substantial factor. Given the totality of the opinions offered by the three physicians cited by the claimant, the administrative law judge was well within his authority to conclude Milstein’s opinion on causation was not persuasive.

The claimant also argues that although other employees may “work long hours and travel for their jobs, tragically, due to his [the decedent’s] weakened pre-existing

physical condition, the same activities proved fatal to Mr. Hannan.” (Emphasis in the original.) Appellant’s Brief, p. 9. In advancing this argument, the claimant is referencing the “eggshell plaintiff doctrine,” which is “a fundamental tenet of workers’ compensation law, namely that an employer takes the employee in the state of health in which it finds the employee.” Epps v. Beiersdorf, Inc., 41 Conn. App. 430, 435 (1996). The claimant relies in part on Hartz v. Hartford Faience Co., 90 Conn. 539 (1916), wherein our Supreme Court affirmed an award of compensation to a dependent spouse whose husband died after sustaining a lifting injury. Although the claim was found compensable by the workers’ compensation commissioner, the award was reversed on appeal by the superior court on the basis that the lifting incident was beyond the scope of the decedent’s duties.<sup>16</sup> While the Supreme Court reinstated the award on the grounds the lifting incident had occurred in the scope of the employment, the possibility that the decedent’s pre-existing hernia may have contributed to the severity of the injury was also raised on appeal to the Appellate Court, which prompted the Supreme Court to comment:

When the exertion of the employment acts upon the weakened condition of the body of the employee, or upon an employee predisposed to suffer injury, in such way that a personal injury results, the injury must be said to arise out of the employment. An employee may be suffering from heart disease, aneurism, hernia, as was Mr. Hartz, or other ailment, and the exertion of the employment may develop his condition in such a manner that it becomes a personal injury. The employee is then entitled to recover for all the consequences attributable to the injury.

Id., 543-44.

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<sup>16</sup> Effective October 21, 2021, the Connecticut legislature directed that the phrase “administrative law judge” be substituted when referencing a workers’ compensation commissioner. See Public Acts 2021, No. 18, § 1.

In addition, the claimant relies upon the analyses of our Supreme Court in Stier v. Derby, 119 Conn. 44 (1934), and, in a matter of somewhat more recent vintage, McDonough v. Connecticut Bank & Trust Co., 204 Conn. 104 (1987). In Stier, the decedent, “who was regularly employed by the Derby Gas and Electric Company as a street foreman and also employed by the city of Derby as a supernumerary policeman,” died from a coronary thrombosis shortly after responding to the scene of a drowning in the Housatonic River. *Id.*, 45. The decedent was called to the scene because he was trained in the use of an “inhalator” owned by the respondent gas company; the company had agreed that the apparatus could be loaned out in the event of an emergency as long as a company employee trained in its use went with it.<sup>17</sup> The commissioner concluded that the decedent sustained a compensable injury while in the employ of the gas company. In reviewing the appeal, our Supreme Court noted:

The finding shows, and the evidence amply sustains it, that the decedent, from the moment he received the call, was in a state of nervous excitement and agitation. He hurried to his garage, to the ball field, to the gas company premises, to the police station, then back to the gas company premises, to the wrong scene of the drowning, then to the proper scene. The commissioner’s conclusion that he was laboring under intense excitement is amply supported by the facts appearing in the finding, which also amply supports the commissioner’s conclusion of over-exertion. Aside from the strain that was placed on him by hurrying to the scene, his actions when he seized the inhalator, carried it, then replaced it in the car, could reasonably be found to be an over-exertion.

*Id.*

In McDonough, the claimant sought compensation for a cardiac injury which she claimed had occurred “as a result of unusual emotional stress at work which accelerated

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<sup>17</sup> An inhalator was a breathing apparatus used “to resuscitate persons overcome by gas or drowning ....” Stier v. Derby, 119 Conn. 44, 46 (1934).

underlying physical conditions and precipitated the onset of disabling heart disease.”

McDonough v. Connecticut Bank & Trust Co., supra, 204 Conn. at 105. The commissioner found that the claimant, who had a family history of heart disease, began to experience cardiac symptoms after attending a meeting from which she left in tears, receiving a follow-up memorandum with which she disagreed, and attending a second meeting “in which she felt she was unjustly criticized and left for home.” Id., 106 n.1. Ultimately, she was diagnosed with two occluded arteries and underwent double coronary bypass surgery.

On appeal, our Supreme Court held that “[t]he evidence supported the conclusion with a reasonable medical probability that the unexpected events at work were a substantial factor in precipitating the plaintiff’s disabling disease,” id., 119, and affirmed the finding of compensability. The respondents in that case had argued that in stress-related heart claims commissioners must balance occupation and non-occupational factors. The court declined to “adopt a new standard for deciding stress-related heart claims and abandon the long-standing rule that the claimant must prove that a *sudden, unusual, and unexpected* employment factor was a substantial factor in causing the claimant’s condition.”<sup>18</sup> (Emphasis added.) Id., 117.

Having reviewed our Supreme Court’s analyses in Stier and McDonough, it is abundantly clear that the fact patterns in both those cases are inapposite to the case at bar, given that the instant evidentiary record is devoid of any suggestion that the decedent

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<sup>18</sup> In McDonough v. Connecticut Bank & Trust Co., 204 Conn. 104 (1987), although the court affirmed the commissioner’s finding that unexpected stress at work had contributed to the claimant’s injury, it declined to reach the issue of whether “the events found by the commissioner to have occurred at the place of the plaintiff’s employment ... constituted an unusual stress or exertion connected with the plaintiff’s employment.” Id., 119 n.5.

experienced a “sudden, unusual, [or] unexpected employment” event which may have constituted a contributing factor to his subsequent cardiac event and death. *Id.* As such, although this board does not dispute the validity of the “eggshell plaintiff” doctrine in general, we are not persuaded that it is applicable to the facts of this matter given that the record does not support the claimant’s contention that “work factors affecting [the decedent] in his vulnerable condition [were] the cause of his death based on reasonable medical probability.” Appellant’s Brief, p. 13.

It should also be noted that in Clements v. Aramark Corp., 339 Conn. 402 (2021), our Supreme Court, in affirming the denial of compensation to a claimant who sustained injuries from an idiopathic fall, stated that “an *otherwise compensable injury*, that is, one that is causally related to the employment, is no less compensable merely because the employee had a preexisting condition that increased the risk or likelihood of injury or made him more susceptible to serious injury.” (Emphasis in the original.) *Id.*, 437. In Post v. Raytheon Technologies/Pratt & Whitney, 6524 CRB-8-23-12 (September 6, 2024), *appeal pending*, A.C. 48047 (September 23, 2024), this board, in reviewing an appeal brought by a claimant who suffered from chronic footdrop and sustained injuries in a fall, observed that “the [Clement] court’s own emphasis in making this statement demonstrates the court’s expectation that even ‘eggshell’ claimants retain the burden of proving that they have sustained ‘an otherwise compensable injury.’” *Id.*, *quoting* Clements v. Aramark Corp., *supra*, 339 Conn. at 439.

In the present matter, the administrative law judge was not persuaded, on the basis of the evidentiary record as presented, that the decedent’s purported work-related stressors constituted a substantial contributing factor to his death. Rather, he credited the

opinion advanced by Bradbury, who opined that although a sudden over-exertion or highly emotional encounter could trigger a cardiac episode in patients suffering from aortic stenosis, there is no evidence that chronic stress either worsens the progression of the disease or can cause a decompensating cardiac event. As such, the claimant failed to satisfy the condition precedent for the application of the eggshell plaintiff doctrine; i.e., that the decedent sustained an “otherwise compensable injury.” *Id.* We therefore find no error in the trier’s rejection of the claimant’s premise that “the cumulative effect of long hours, travel and the stress those activities created, superimposed over an already compromised heart ... was the cause of Mr. Hannan’s death.” Appellant’s Brief, p. 14.

We also categorically reject the claimant’s suggestion that “an average educated layman would be able to appreciate that’ being subject to long work hours and extensive travel away from home would tax an individual’s constitution.” *Id.*, 16, *quoting Garofalo v. Jarvis Products Corp.*, 4249 CRB-8-00-6 (September 12, 2001). It is well-settled that “[u]nless causation under the facts is a matter of common knowledge, the plaintiff has the burden of introducing expert testimony to establish a causal link between the compensable workplace injury and the subsequent injury.” *Sapko v. State*, *supra*, 305 Conn. at 386. We do not believe that the physical effects of work-related stress on a complex cardiac condition such as progressive aortic stenosis readily lend themselves to the average layman’s “common knowledge.”

The claimant further avers that the trial judge, in finding that Mathew had “opined that there was no evidence of work-related stress,” mischaracterized the evidence. Findings, ¶ 60. We disagree. Although Mathew remarked that “stress may impact the body without there being overt symptoms,” Respondent’s Exhibit 12, p. 4, he repeatedly

testified at deposition and stated in his written report that he did not see any evidence that the decedent had experienced any work-related stress. Under cross-examination, he agreed that extensive work-related travel, with all the inconvenience that such activity entails, could ostensibly be a source of stress for some individuals but not others.

However, he also stated:

I based my conclusions on the records that I received. I was not privy to the details of his work life, his work structure, if he did miss his wife or his loved ones. Given new material then my opinion may not stay the same. But based on the records that I cited in the report, I didn't see any evidence of work-related stress. If I got new materials to show me either evidence such as your thing [sic], then my opinion may change.

Respondent's Exhibit 13, p. 20.

In light of the highly speculative nature of Mathew's testimony regarding the effects of work-related stress generally, and the fact that the medical records he reviewed were devoid of any suggestion that the decedent in the present matter was experiencing work-related stress, the administrative law judge was under no compunction to infer that Mathew had meant to opine that the decedent suffered from work-related stress. See Dengler v. Special Attention Health Services, Inc., supra, 62 Conn. App. at 447. We therefore reject the contention that the finding in this regard constituted an "arbitrary misconstruction of the evidence [that] led to an illogical and unsupportable conclusion." Appellant's Brief, p. 16.

The claimant also claims as error the administrative law judge's conclusion that the opinions offered by Milstein and Bradbury were "persuasive that Mr. Hannan's heart disease was not caused by his employment at Electric Boat." Id., 17, *quoting* Conclusion, ¶ T. The claimant contends that this conclusion "misconstrues and/or

misstates the claims being asserted by the claimant,” *id.*, given that “[t]here is no claim that the physical stressors that Mr. Hannan experienced are what caused or even accelerated his aortic stenosis.” *Id.*

Here, the claimant seems to argue that because the trier made a finding that the employment did not cause the underlying heart condition, he must have misunderstood the claimant’s true argument: that the preexisting cardiac disease made the decedent more susceptible to a fatal cardiac event and it was travel-related stress that triggered the fatal event. We believe this argument assumes too much.

To begin with, the trier has credited the opinion that the cause of death was the underlying, progressive heart disease. Had he believed that work and/or travel stress was a substantial factor in causing that underlying disease, the outcome of the case would necessarily have been different. As such, the fact that there was no causal connection between work and the underlying disease – even if not alleged by the claimant – can be seen as simply a pertinent negative finding.

Moreover, the content of the finding does not support the notion that the administrative law judge failed to grasp the claimant’s position. He specifically recited that Milstein had opined “the job did not lead to the development of the cardiac disease itself, and that the disease was a preexisting condition.” Findings, ¶ 44. He also noted, however, that it was Milstein’s opinion that work stress caused the “cardiac event and death.” Findings, ¶¶ 41, 43. From this, it is reasonable to conclude he recognized the difference between causation for the underlying condition and causation for the death. Finally, we note that the trier’s ultimate conclusion was that the decedent “did not have

work-induced stress that was a substantial contributing factor to his heart disease and death.” Order, ¶ 1.

Taking the decision as a whole, we think it is clear the administrative law judge understood that compensability turned on whether work-related stress existed and, if so, whether it triggered the fatal cardiac event. He simply did not believe there was credible evidence of underlying work stress that substantially contributed to the fatal event. The trier’s findings document in detail the decedent’s progressive heart disease. See Findings, ¶¶ 26-40. Neither the heart disease nor the progression of that disease is claimed to be work-related. In addition, the trier determined that there were “no sudden unusual work-stressors leading up to his death,” Conclusion, ¶ P, and further concluded that the decedent’s treating cardiologists had made no notation of work-related stress. See Conclusion, ¶¶ J, K. He also found that Matthew, whose testimony he deemed credible and persuasive, had reviewed the decedent’s health records and found no evidence of stress, apart from grief over the death of his mother. See Findings, ¶¶ 59-61; Conclusion, ¶ V. Ultimately, he was not persuaded by the claimant’s experts.

As such, having reviewed the evidentiary record in the present matter in its entirety, we are unpersuaded that the administrative law judge misapplied the law or drew improper inferences from the subordinate facts. “[I]t is ... immaterial that the facts permit the drawing of diverse inferences. The [trier] alone is charged with the duty of initially selecting the inference which seems most reasonable and his choice, if otherwise sustainable, may not be disturbed by a reviewing court.” Fair v. People’s Savings Bank, supra, 207 Conn. at 540, quoting Del Vecchio v. Bowers, 296 U.S. 280, 287 (1935).

There is no error; the March 14, 2024 Finding and Dismissal of Zachary M. Delaney, Administrative Law Judge acting for the Second District, is accordingly affirmed.

Administrative Law Judges David W. Schoolcraft and William J. Watson III concur in this Opinion.