

IN THE NEBRASKA COURT OF APPEALS

**MEMORANDUM OPINION AND JUDGMENT ON APPEAL
(Memorandum Web Opinion)**

ARIKAN V. VALLEY COATING OPERATION

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MUSTAFA ARIKAN, APPELLANT,

v.

VALLEY COATING OPERATION AND VALMONT INDUSTRIES, INC., APPELLEES.

Filed March 26, 2024. No. A-23-538.

Appeal from the Workers' Compensation Court: JAMES R. COE, Judge. Affirmed.

Jennifer L. Turco Meyer, of Dyer Law, P.C., L.L.O., for appellant.

L. Tyler Laflin and Jon-Thomas Roemmick, of Engles, Ketcham, Olson & Keith, P.C., for appellees.

MOORE, BISHOP, and ARTERBURN, Judges.

MOORE, Judge.

INTRODUCTION

Mustafa Arikan appeals from an order of the Nebraska Workers' Compensation Court dismissing his claim for workers' compensation benefits. On appeal, Arikan argues that the compensation court did not provide a well-reasoned decision as required under Workers' Comp. Ct. R. of Proc. 11(A) (2023). For the reasons set forth herein, we affirm.

STATEMENT OF FACTS

Employment.

On June 29, 2017, Arikan sustained an injury to his back in the course and scope of his employment by Valmont Industries, Inc. (Valmont), as a material handler. Subsequently, on March 22, 2018, Arikan sustained an injury to his head in the course and scope of his employment by

Valmont as a bridge crane operator. Arikan's last day of work at Valmont was in September 2019, and his employment was terminated in March 2020.

Petitions.

On January 31, 2020, Arikan filed a petition in the compensation court seeking benefits. He alleged a work-related accident occurring on or about June 29, 2017, and resulting in injury to his back for which he needed medical treatment. As to the manner of his accident and injury, Arikan alleged that he "was pushing ashes through the chains while paddling at the kettle when he felt pain in his back." Arikan alleged that the matters in dispute were Valmont's liability for temporary partial disability payment, temporary total disability payment, the extent of his disability, payment of medical bills and mileage, future "medicals," his right to rehabilitation, permanent disability, penalties and attorney fees, and other benefits as allowed by the Nebraska Workers' Compensation statutes.

On February 3, 2020, Arikan filed a second petition in the compensation court seeking benefits. Arikan alleged a work-related accident occurring on or about March 25, 2018, and resulting in injury to his head for which he needed medical treatment. With respect to this accident and injury, Arikan alleged that he "was working when [a] large piece of metal called a 'top' came off a crane and fell on his head." The matters alleged by Arikan to be in dispute were the same as those he identified in his first petition. The second petition was subsequently amended to allege that the second accident resulted in injury both to Arikan's head and his spine, and at trial, the second petition was amended further to reflect an injury date of March 22, 2018.

We note that Arikan identified both Valmont and "VALLEY COATING – OPERATION" as defendants in the caption of his first petition; he identified only Valmont as defendant in the caption of his second petition. The exact relationship between the two entities is unclear, although we note that the first report of injury document for the March 2018 accident identified "VALLEY NE-COATINGS" as the employer and Valmont as the insured; the first report of injury for the June 2017 accident identified Valmont as employer and insured. The cases, which had initially been assigned to different judges of the compensation court, were consolidated for trial before a single judge, and we have referred to the defendants collectively as "Valmont."

Trial.

Trial was held before the compensation court on February 27 and March 24, 2023. The court received more than 1,500 pages of medical records and other exhibits offered by the parties. The exhibits received included the parties' stipulation that Arikan sustained an injury to his back in the course and scope of his employment on June 29, 2017, and sustained an injury to his head in the course and scope of his employment on March 22, 2018. The parties also stipulated to Arikan's average weekly wage and compensation rate at the time of each injury, leaving the nature and extent of Arikan's injuries as the issues for resolution by the court. The court also heard testimony from Arikan about his accidents and the treatment of his injuries. The record reflects that since his first accident, Arikan has sought treatment from a plethora of medical providers for complaints of pain in multiple parts of his body; lightheadedness, seizures, and balance issues; depression, anxiety, and other mental health issues; loss of cognitive ability; and more. Given the

nature of Arikan's assignment of error on appeal, we do not detail the medical evidence here, but we have set forth certain portions of the evidence in the analysis section below.

Order of Dismissal.

On June 14, 2023, the compensation court entered an order of dismissal. The court's order is more than 20 pages long. In the order of dismissal, the court set forth the allegations of Arikan's petitions and the procedural history of the case. After noting the parties' stipulations, the court then set forth a detailed summary of the medical treatment received by Arikan since the first accident. This portion of the order includes opinions expressed by various medical providers and some citations to the record. The order of dismissal concludes with the court's assessment of the evidence, including the court's finding that there was little objective evidence in the record to explain Arikan's condition, leaving the court at a loss to determine the nature and extent of Arikan's injuries. The court found that Arikan failed to prove by a preponderance of the evidence with respect to either accident that he sustained any permanent impairment or lasting injuries requiring restrictions, time off from work, or current or future medical care. Accordingly, the court dismissed Arikan's petitions.

ASSIGNMENT OF ERROR

Arikan asserts that the compensation court erred in failing to provide a well-reasoned decision under Rule 11(A).

STANDARD OF REVIEW

Pursuant to Neb. Rev. Stat. § 48-185 (Reissue 2021), an appellate court may modify, reverse, or set aside a Workers' Compensation Court decision only when (1) the compensation court acted without or in excess of its powers; (2) the judgment, order, or award was procured by fraud; (3) there is not sufficient competent evidence in the record to warrant the making of the order, judgment, or award; or (4) the findings of fact by the compensation court do not support the order or award. *Espinoza v. Job Source USA*, 313 Neb. 559, 984 N.W.2d 918 (2023).

Determinations by a trial judge of the Workers' Compensation Court will not be disturbed on appeal unless they are contrary to law or depend on findings of fact that are clearly wrong in light of the evidence. *Id.* In testing the sufficiency of the evidence to support the findings of fact in a workers' compensation case, an appellate court considers the evidence in the light most favorable to the successful party, every controverted fact must be resolved in favor of the successful party, and the appellate court gives the successful party the benefit of every inference reasonably deducible from the evidence. *Cajiao v. Arga Transport*, 30 Neb. App. 700, 972 N.W.2d 433 (2022).

ANALYSIS

Arikan asserts that the compensation court erred in failing to provide a well-reasoned decision under Rule 11(A). We first set forth the current language of Rule 11(A) and relevant case law concerning compliance with that rule. Then, we set forth certain portions of the medical evidence (focusing on objective evidence and inconsistencies specifically noted by the court in the order of dismissal) and quote the analysis portion of the order, before turning to Arikan's arguments on appeal.

Requirements of Rule 11(A).

Rule 11(A) currently provides in its entirety, “Decisions of the court shall provide the basis for a meaningful appellate review. The judge shall specify the evidence upon which the judge relies.” At the time of its codification in 2002, Rule 11(A) also included language stating, “All parties are entitled to reasoned decisions which contain findings of fact and conclusions of law based upon the whole record which clearly and concisely state and explain the rationale for the decision so that all interested parties can determine why and how a particular result was reached.” Workers’ Comp. Ct. R. of Proc. 11(A) (2002). That additional language was eliminated from the rule by amendment in 2006.

Rule 11(A) ensures that compensation court orders are sufficiently clear in addressing the parties’ requested relief so that an appellate court can review the evidence relied upon by the trial judge in support of his or her findings. *Lewis v. MBC Constr. Co.*, 309 Neb. 726, 962 N.W.2d 359 (2021). See, also, *Hynes v. Good Samaritan Hosp.*, 285 Neb. 985, 830 N.W.2d 499 (2013) (meaningful appellate review requires record that elucidates factors contributing to lower court’s decision).

Objective Medical Evidence and Inconsistencies.

In the order of dismissal, the compensation court summarized the massive medical record presented at trial. Given the size of the record and the complexity of Arikan’s medical history, the court’s summary of evidence understandably did not include every single visit to, or test conducted by, a medical provider. Below, as relevant to Arikan’s arguments on appeal, we have reviewed and set forth certain portions of the medical record that were referenced in the court’s summary of the evidence. In our summary, we have noted the “objective evidence” of Arikan’s injuries that he relies on in his brief on appeal.

On September 2, 2017, mild “multilevel costovertebral degenerative changes” were observed in an MRI of Arikan’s thoracic spine; the MRI showed various small disc protrusions in the thoracic spine, “without significant central canal or neural foraminal narrowing.” On September 5, Dr. Michael Breunig, one of Arikan’s treating doctors, advised Arikan via telephone, that the MRI of his thoracic spine was “essentially normal.” Arikan complained of thoracic back pain at the time of an in-person appointment with Breunig on September 8, at which time Breunig noted Arikan likely had muscular injury, also noting that Arikan “does not give a very good history.”

A CT scan of Arikan’s head was taken on March 26, 2018, after the second accident. The scan was “[n]egative” and showed no “acute intracranial hemorrhage or skull fracture.”

On September 25, 2019, an MRI of Arikan’s spine showed mild disc degeneration. Specifically, the MRI showed a small central disc protrusion at C5-6, a small broad disc bulge at C7-8, a minimal broad disc bulge at T10-11, and no evidence of focal disc extrusion, spinal stenosis or neural foraminal narrowing. A CT scan of Arikan’s spine taken on October 24, showed a very small central disc protrusion at T10-11, causing some mild narrowing consistent with the MRI, and no spinal stenosis, fracture, or dislocation.

Between January and March 2020, Dr. Matthew Magnino administered costovertebral joint injections to Arikan on three occasions. Arikan reported 90 percent improvement following the injection on two occasions followed by a slow regression to pre-injection pain levels. On March

10, Dr. Scott Haughawout, one of the pain doctors treating Arikan, opined that Arikan had no permanent restrictions related to the June 2017 accident, that his symptoms seemed to be associated with “costovertebral joint degeneration,” and noted that Arikan had responded recently to the injections administered by Magnino.

On December 14, 2020, Arikan presented at an emergency room (ER) claiming chronic episodes of loss of consciousness for the previous 2 years following a head injury, and he was released from the ER on December 15. Before his release from the ER on December 15, hospital staff reviewed a CT scan of Arikan’s head, which was negative for evidence of trauma or intracranial hemorrhage.

Neurologist Dr. Joel Cotton conducted an Independent Medical Examination of Arikan on January 7, 2021, with respect to injuries incurred in the March 2018 accident. Cotton took a history of Arikan being injured “sometime in 2018” when he was “struck on the top of his head by a large metal object” and wearing a hardhat at the time. Arikan also reported a previous injury in 2017 “to his upper back that radiated into the low back and then into the left shoulder.” Arikan did not recall if he was still having symptoms related to his back injury at the time of the 2018 accident. Cotton’s neurologic examination of Arikan was normal, and based on that examination, the history provided by Arikan, and Cotton’s review of medical records, he opined that Arikan had “not suffered any damage or injury to his brain.” Cotton found “no evidence that there [was] any residual physical injury present” related to the March 2018 accident and “no evidence that [Arikan] suffered any damage or injury to his brain occurring on or about [March 22, 2018].” Cotton opined that none of Arikan’s current complaints were the direct and proximate result of the March 2018 accident and that that any symptoms from the 2018 accident had been temporary.

On March 11, 2021, Dr. Manjula Tella, a neurologist treating Arikan, administered an EEG to examine Arikan’s brain activity due to Arikan’s complaints of forgetfulness and cognitive changes. The EEG study was normal with no abnormal findings. Tella referred Arikan to Dr. Soubrata Raikar for pain management and also referred him for a cognitive assessment of current functional status.

One piece of “objective evidence” relied on by Arikan is the cognitive testing performed on May 4, 2021. The testing showed Arikan “appeared to put forth good effort throughout testing,” but the results on the “RBANS effort scale” suggested “suboptimal effort.” The report stated, “Overall, results indicate that the cognitive data obtained . . . should be interpreted with caution.” The testing classified Arikan as “moderately impaired compared to his expected level of performance;” his neuropsychological study was “not normal due to impaired general cognition.” The study report noted the complexity of Arikan’s situation, in that he had “a different cultural and educational background than typical,” and that some elements of his performance on the brief testing were difficult to interpret. In the history section, the report noted “per medical record,” that Arikan was involved in an accident at work resulting in a concussion in March 2018, and it also noted Arikan’s report of the CT scan done a few days after the accident with “unremarkable” results. A full neuropsychological battery was recommended to “thoroughly explore all aspects of his situation, including the cross-cultural validity issues, emotional functioning, and non-neurological influences.”

Arikan self-referred to neurosurgeon Dr. Keith Lodhia, who first saw him on June 17, 2021. At that visit, Lodhia reviewed the MRI and CT scans of Arikan’s spine taken in September and

October 2019, stating that these “normal appearing” diagnostic studies showed “a little bit of increased kyphosis,” “no evidence of any disc or vertebral compression fracture or other pathology,” and “fairly age appropriate changes.” Arikan did not want to partake in any of the treatment options offered by Lodhia at that time.

On appeal, Arikan also relies on the results of the neuropsychological testing administered on June 24, 2021. On that testing, Arikan exhibited “diminished performance” from a cognitive perspective, and in terms of adjustment, his presentation suggested a “clinical level of somatization, phobic anxiety, psychoticism, anxiety, and depressed mood.” The reporter interpreted the test findings and “behavioral observations within the context of medical information” as “consistent with the cognitive problems often seen in individuals diagnosed with depression with anxiety and mild neurocognitive disorder.”

Arikan saw Raikar on July 21, 2021, for complaints of thoracic and cervical pain. Raikar administered an epidural steroid injection to Arikan’s cervical spine on October 19 and his office provided various subsequent treatments. We note that another piece of “objective” evidence of his injury relied on by Arikan on appeal, is Raikar’s medical causation report of November 2021, in which Raikar opined that there was a direct causal connection between Arikan’s work accident, the disc bulges shown on various MRIs, and Arikan’s cervical and thoracic pain.

On July 22, 2021, Arikan saw ear, nose, throat specialist (ENT) Dr. Timothy C. Kuo for evaluation of “subjective fluctuating complaints of right ear pressure, pain, and some hearing loss,” as well as occasional “unexplained imbalance,” since his March 2018 injury. Arikan’s examination on that date was “unremarkable,” and his audiology results were “[e]ssentially normal” with “[n]o worrisome patterns.” Arikan had “[e]xcellent word recognition.” During a follow-up visit on December 21, testing of Arikan’s left ear showed “normal hearing;” results for his right ear were “inconsistent” and further testing of the right ear indicated “malingered.” During that visit, Kuo counseled Arikan on “giving honest responses.”

A November 3, 2021, MRI found no fracture or dislocation of Arikan’s thoracic spine. It showed small disc bulges at various thoracic levels and some minor disc bulging and certain cervical levels, no cord or intrathecal mass, no spinal stenosis, and no grossly significant abnormality at the cervical or lumbar levels. In December, Arikan saw neurosurgeon Dr. Benjamin Bixenmann for complaints of worsening upper and mid back pain. Bixenmann examined Arikan and reviewed clinical and radiographic findings and “all available imaging studies” with Arikan. Bixenmann did not see “any injury to structure of [Arikan’s] spine.” He stated in his notes that he “would not have a target to consider either surgical intervention or targeted steroid injections.” Specifically with respect to the November 3 MRI, Bixenmann noted that it was a “normal appearing MRI for age with very mild chronic degenerative changes.”

On January 3, 2022, an audiogram was completed, due to Arikan’s complaints of tinnitus and decreased hearing in his right ear and unsteadiness when walking. The audiology report showed normal hearing in both ears, excellent bilateral word recognition, and recommended vestibular evaluation for Arikan’s complaints of unsteadiness. On February 3, vestibular neurodiagnostic testing was performed with “unremarkable” findings. Arikan also saw ENT Dr. Timothy Tesmer on February 3, complaining of right ear issues from a traumatic brain injury at work in 2018. Tesmer reviewed the January 3 audiogram and records from Arikan’s prior visits to

Kuo, noting that Kuo's records showed a right sided hearing loss that was "most likely . . . malingering in nature." Tesmer saw "no indication for a hearing aid in the right ear at this time."

Another item of "objective" evidence relied on by Arikan is the record from his visit to neurosurgeon Dr. John Hain on February 23, 2022. At that time, Hain noted having originally seen Arikan in 2019 when he diagnosed Arikan with "presumptive costovertebral pain on the left." Hain's February 23 notes state that Arikan's pain is "fairly classic for this specific ailment." Hain stated further:

[Arikan's pain] is an inch or two off midline and worsened with twisting motions. It does not radiate pain around the chest wall and therefore does not constitute radicular pain. Imaging studies also would indicate this is likely the source of his pain as he only has a very small disc bulging in the thoracic spine which would not be causative, in my opinion.

As far as I know, there are no good diagnostic options for this other than singling out individual rib heads and performing injections where they meet the spine. Typically in the past, pain management has done 3 rib heads at a time looking for a diagnostic source to this type of pain. We cannot treat until we know exactly where the pain originates.

Arikan presented at an ER on April 11, 2022, with a complaint of "seizure-like activity" prior to his arrival. He reported having recently started seizure medication prescribed by Tella and reported a history of seizures secondary to a traumatic brain injury "2 years ago." He went to the ER again on April 16, reporting a history of traumatic brain injury with balance issue, which were "worse today." He reported shortness of breath, nausea, and right ear/jaw pain.

On May 25, 2022, Arikan saw Hain again. Hain noted Arikan's previously reported 90% improvement from injections given following his first visit to Hain in 2019. At the time of his May 2022 visit, Arikan disputed this improvement, stating that was "not true." At the time of the May 2022 visit, Arikan reported "expanding" pain, as well as pain in his left arm and digits. Hain inquired as to when this left arm and digit pain started, and Arikan replied that he had had this pain "the entire time." Hain observed that if these pain symptoms had been present the entire time, a review of the September 2021 MRI "should suffice to evaluate the spine and radicular nerve paths." In reviewing the September 2021 MRI, Hain noted that it showed "no central stenosis and no significant foraminal stenosis." Hain also noted that the radiologist at time of the MRI had not seen "any significant central or foraminal stenosis." In his May 2022 notes, Hain stated that "[Arikan's] left arm pain does not appear to be arising from the spinal column. He does not have a structural defect in the thoracic spine leading to the paraspinal symptoms. He does not need a surgeon in my opinion."

Arikan went to the ER on June 14, 2022, with complaints of "lots of back spasms tonight." Arikan requested a steroid injection in his spine for pain and insulted staff nurses when denied. Staff noted him moving comfortably and walking with a steady gate upon discharge.

The final piece of "objective" evidence relied upon by Arikan is the report of his visit to neurosurgeon Dr. Jeremy Hosein on June 20, 2022, for complaints of back pain from a work accident and a history of traumatic brain injury and seizures. Hosein stated that Arikan had "myofascial back pain of unclear origin." Hosein reviewed Arikan's "cervical and thoracic" MRIs with Arikan in detail (Hosein's notes do not specify which MRIs were reviewed). With respect to the imaging reviewed, Hosein noted that Arikan had "areas of small disc bulges" at various

locations on his spine, but he stated that “[t]hese do not cause any significant compression of thecal sac or the thoracic cord.” Hosein did not believe that “the small disc herniations are a significant pain generator to explain [Arikan’s] disabling back pain.” Arikan requested exploratory surgery “at the focal spot of pain in his mid back,” but Hosein explained there were “no findings on the MRI to warrant this.” Hosein stated that surgery would not be “prudent.”

Arikan presented at an ER on 4 consecutive days in early July 2022. On July 8, he was seen for complaints of worsening back pain; he was discharged after being given steroid patches, instructed to continue his anti-inflammatory medications, and given a neurosurgical follow-up appointment. He presented at the same ER on July 9, 2022, with complaints of thoracic pain, and arm numbness, and he left against medical advice. On July 10, Arikan presented at the ER of a second hospital with complaints of worsening back pain, increasing weakness in left upper extremity, and “flu like symptoms”; he tested positive for COVID-19. Upon exam, he demonstrated “increased weakness on the left upper extremity.” Staff expressed concern about this “new neurologic deficit,” but Arikan did not want to wait for imaging tests in the ER and left against medical advice (after quarantine instructions were given). Arikan returned to the ER of that hospital on July 11, with complaints of numbness in the bilateral legs, left arm, left side of face. On July 11, ER staff observed Arikan to move without difficulty. His exam was “extremely inconsistent” with his claimed symptoms. He declined further work up and left the ER against medical advice. During another ER visit to the second hospital on July 16, Arikan reported that he had had a seizure 20 minutes prior and that his seizures were from “his bulging discs in his neck.” On that date, he left the ER without being seen.

On July 18, 2022, Arikan saw Dr. Miki Katzir for low back pain, neck pain, and numbness and tingling in his left arm. Notes from the visit show that Katzir reviewed “MRI cervical and thoracic from outside facility,” which demonstrated “no fracture or dislocation” and showed that “alignment is satisfactory.” The notes from this visit also indicate that the imaging reviewed shows “minor disc bulging in cervical and thoracic spine, but nothing causing spinal stenosis.” Katzir discussed these observations with Arikan, concluded that Arikan “does not need surgical intervention at this time,” and recommended follow-up with Arikan’s other treatment providers for ongoing management of chronic pain and psychological effects.

On August 9, 2022, Arikan saw Lodhia, who reviewed an EMG performed on July 26. The EMG showed “no radiculopathy or ulnar nerve dysfunction.” Lodhia noted his review of the September and November 2021 MRIs, which showed that the “thoracic spine was essentially normal except for some mild age related bulging[,] as was the cervical spine.” Lodhia noted that Arikan “still has pain syndrome despite no anatomic basis that we can see on the imaging.” In his notes from the August 2022 visit, Lodhia noted his prior review of the 2018 head CT “that showed no evidence for any acute injury or skull fracture.” Lodhia stated that Arikan “has apparent traumatic brain injury from an accident and has had another injury as well that has created chronic musculoskeletal spine pain” and also “has this numbness in an atypical distribution.” Lodhia concluded that he did not see “anything that would create this in terms or neural foraminal or centrally in the canal,” noting again that the recent EMG did not detect either radiculopathy or ulnar neuropathy.” Lodhia expressed his belief that Arikan “has a myofascial pain syndrome” and told Arikan that that was not something that could be treated with surgery.

Arikan visited multiple ERs during August 2022. We have only noted the visits directly referenced in the compensation court's order. On August 14, Arikan went to the ER with complaints of worsening chronic thoracic pain. Arikan wanted information on a local spine specialist, which was provided. During an August 21 ER visit to the same hospital for mid back pain, Arikan stated he could "barely walk." ER records for that visit note Arikan had been seen "numerous times for same complaint," that Arikan stated he could not walk but stood and turned to indicate where his back hurt, and that he "eloped from the emergency department, declined medications to nurses while [he] ambulated without difficulty out the front door." He presented at the ER of another hospital on August 22, with complaints of back pain, numbness down both legs, and having lost control of his bladder the previous day. An MRI was taken, which showed "[m]ild diffuse disc bulges at L4-L5 without significant central canal or foraminal stenosis." The remainder of his spine appeared "normal." During an ER visit to a third hospital on August 26, with complaints of low back pain, Arikan left against medical advice after being given "Valium and Norco." He returned to the third hospital on August 29. Arikan was discharged after being given "Valium, Toradol, hydrocodone" and instructed to follow-up with his other care providers. He was seen at the neurosurgery clinic of the third hospital later that day, stating he needed a second opinion for his low back pain. During his clinic visit, Arikan reported "subjective upper and lower extremity paresthesias that do not follow a specific dermatomal pattern." Staff informed Arikan that there was no indication for surgery and that he did not need to be seen in the neurosurgery clinic for follow-up.

Compensation Court's Analysis of Medical Evidence.

Arikan focuses his arguments on certain statements in the compensation court's analysis of the medical evidence. We quote that portion of the order of dismissal in its entirety:

This case has over 1,500 pages of medical records including 10 MRI's and 8 CT scans of [Arikan's] head, cervical, thoracic and lumbar spine, an EMG to determine nerve latency for radiculopathy, and EEG test to the brain, a hearing test and vestibular test for balance issues, treatment at emergency rooms at Omaha, Bellevue, Lincoln and Fremont Hospitals in excess of 30 visits, sometimes involving back to back visits, four days in a row, 2 ear, nose and throat specialists (ENTs), 3 neurosurgeons in Omaha and Lincoln and several pain physicians.

The Court had summarized the detailed and extensive treatment [Arikan] has sought and received above. The undersigned upon reviewing the findings on the MRI reports, CT scans, EMG reports, EEG test[s] notes there is little if any objective finding of any injury to [Arikan's] body by any of the physicians that explain [Arikan's] condition. The parties stipulated . . . that [Arikan] was injured on June 29, 2017 and March [22], 2018 which was accepted by the Court, however, the nature and extent of the injuries are at issue. The Court is likewise at a loss to do so. The Court finds this case involves numerous issues of credibility and inconsistencies which the Court resolves on behalf of [Valmont], with the finding that [Arikan] has failed to prove by a preponderance of the evidence as to either the accident of June 29, 2017 or March [22], 2018 that [Arikan] sustained any permanent impairment, or long-lasting injuries that require restrictions, time off from work or the need for any current or future medical care.

For the reasons set forth above, the Court finds that [Arikan's] [p]etitions . . . should be dismissed.

Findings of Fact and Conclusions of Law

Arikan argues that the compensation court's order "does not meet the requirements of this court's "previous interpretation of Rule 11." Brief for appellant at 12. He cites *Lewis v. MBC Constr. Co.*, 309 Neb. 726, 962 N.W.2d 359 (2021) and *Torres v. Aulick Leasing*, 258 Neb. 859, 606 N.W.2d 98 (2000), and he argues that the order of dismissal in this case is "essentially an incomplete summary" of the medical evidence submitted by the parties at trial followed by several "conclusory statements that are vague, ambiguous and unsupported by citation to the record." Brief for appellant at 12. He argues further that the order makes no findings of fact or law and contains no rationale or explanation for the court's decision. We disagree with Arikan's assessment of the order of dismissal.

We first note that when the Supreme Court made its assertion in *Torres*, that Rule 11(A) "clearly requires explicit findings of fact and conclusions of law so that all interested parties and a reviewing court can determine the legal and factual basis upon which a decision is made," the rule, in fact, did explicitly require such findings. *Torres v. Aulick Leasing, supra*, 258 Neb. at 863, 606 N.W.2d at 102. The more recent *Lewis* case cites *Torres* for that same proposition, without addressing the fact that the language of the rule has changed since *Torres* and no longer explicitly requires the court to make "findings of fact and conclusions of law." Nonetheless, the rule still requires that the court's decisions provide the basis for meaningful appellate review and requires the judge to specify the evidence relied upon. In this case, the trial judge wrote an order of dismissal of more than 20 pages. It provided a detailed, yet succinct, summary of the massive medical record with citations to the record in the second section of the order, and it provided the reasons for its decision in the third section. As noted previously, given the size and complexity of the medical record, the court's order did not summarize every medical visit, test, or treatment received by Arikan since the first accident. As discussed further below, the court's order was sufficient to provide the basis for a meaningful appellate review in compliance with Rule 11(A).

Objective Evidence of Injury.

Arikan directs our attention to the compensation court's statement that upon its review of "MRI reports, CT scans, EMG reports, EEG test[s]" in the medical record, it found little in the way of objective evidence of any injury to Arikan's body to explain his condition. Arikan argues that the court's statement is vague and that without more specific references to the evidence supporting the compensation court's conclusion, this court cannot conduct a meaningful appellate review. Arikan also directs our attention to portions of the medical record, which he argues do provide objective evidence of his injury.

Arikan essentially asks this court to read the third section of the compensation court's order of dismissal outside of the context of the lengthy recitation of factual evidence and references to the record found in the second section of the order. As we noted above, Arikan relies on neurological testing and evaluation conducted in May and June 2021, a report from Raikar in November 2021, and notes from visits to Hain in February 2022 and Hosein in June 2022. The

results of the neurological testing and evaluation do show some cognitive impairment, but we note that the May 4, 2021, results suggest the results should be interpreted with caution given the indication of suboptimal effort by Arikan. The notes from Arikan's visit to Hain in February 2022 indicate that Arikan's thoracic disc bulges are not likely to be causative of his pain symptoms and Hosein's June 2022 notes indicate an "unclear" origin for Arikan's back pain, state that his small disc herniations are not a significant pain generator, and state that MRI findings do not warrant exploratory surgery. Raikar's causation report of November 2021 is the only piece of the "objective" evidence relied on by Arikan to set forth a causal connection between Arikan's work accidents and his ongoing symptoms. Although there is other causation evidence (both for and against Arikan's claims) we have only discussed the evidence specifically relied upon by Arikan in his brief on appeal.

Upon our review of the medical evidence specifically noted in the compensation court's order of dismissal and our review of the record as a whole, it is clear that the court rejected the evidence relied upon by Arikan or found that it did not favor Arikan's position. Triers of fact are not required to take the opinions of experts as binding on them. *Hintz v. Farmers Co-op Assn.*, 297 Neb. 903, 902 N.W.2d 131 (2017). When the court's order is read as a whole, it is sufficient to provide for a meaningful appellate review, as we have done.

Issues of Credibility and Inconsistencies.

Arikan also takes issue with the compensation court's statement that the case "involves numerous issues of credibility and inconsistencies which the Court resolves on behalf of [Valmont]." Arikan argues that this statement is ambiguous as to whose credibility and to which inconsistencies the court was referring. He argues that, if the court was referring to inconsistencies in his testimony, the court's statement is insufficient to allow him to properly assess or refute on appeal the court's assessment of his credibility. He argues that this is particularly important where the cultural background, claimed head injury, and mental health of an injured party impacts the person's memory and ability to communicate (Arikan, age 37, immigrated to the United States from Turkey in his early 20s). As to any expert opinions being referenced by the court in the above-referenced statement, Arikan acknowledges that there was conflicting evidence from the medical professionals in this case. He argues that a decision in compliance with Rule 11(A) "would need to provide an explicit finding of what evidence the trial court found to be more credib[le] and/[]or consistent and why the trial court made that determination." Brief for appellant at 14.

As the trier of fact, the Workers' Compensation Court is the sole judge of the credibility of witnesses and the weight to be given their testimony. *Parks v. Hy-Vee*, 307 Neb. 927, 951 N.W.2d 504 (2020). And, the Workers' Compensation Court is the sole judge of the credibility and weight to be given medical opinions, even when the health care providers do not give live testimony. *Moss v. C&A Indus.*, 25 Neb. App. 877, 915 N.W.2d 615 (2018). Resolving conflicts within a health care provider's opinion rests with the Workers' Compensation Court, as the trier of fact. *Id.* If the record contains evidence to substantiate the factual conclusions reached by the trial judge in workers' compensation cases, an appellate court is precluded from substituting its view of the facts for that of the compensation court. *Id.*

Again, the third section of the order of dismissal must be read in conjunction with the second section. In the second section of its order, the compensation court acknowledged the

causation opinions of experts relied upon by Arikan, but as we noted above, the court cited numerous examples of Arikan's inconsistent reporting to medical professionals as well as the numerous imaging and other tests that did not provide objective evidence to explain Arikan's ongoing symptoms. The court did not err in rejecting the evidence relied upon by Arikan. When the order of dismissal is read as a whole, it is clear that the court's statement about credibility and inconsistencies refers to the many instances noted in the second section of the opinion where Arikan's subjective symptoms were not explained by objective testing and where Arikan gave conflicting histories to different medical providers. The opinion complies with Rule 11(A) in this regard, and while a more elaborate explanation of the court's reasoning in the third section of the opinion might have been useful, given the size of the record as a whole and the court's lengthy factual summarization in the second section of the order, its brevity in the third section is understandable.

Conclusory Statement.

Finally, Arikan takes issue with the compensation court's statement that "[Arikan] has failed to prove by a preponderance of the evidence as to either the accident of June 29, 2017 or March [22], 2018 that [Arikan] sustained any permanent impairment, or long-lasting injuries that require restrictions, time off from work or the need for any current or future medical care." Arikan cites *Hale v. Standard Meat Co.*, 251 Neb. 37, 554 N.W.2d 424 (1996) (finding compensation court's order of dismissal failed to comply with Rule 11(A) where order only provided that evidence did not preponderate in favor of finding for plaintiff and court did not explain how plaintiff failed to meet burden). Arikan argues that the order of dismissal lacked any explanation as to how the compensation court's "vague, ambiguous, and conclusory statements" in the third section of the order supported the court's decision to deny Arikan benefits. We disagree. First, we note that *Hale* was decided at a time when Rule 11(A) still explicitly required compensation court decisions to contain findings of fact and conclusions of law to explain the court's rationale. The rule now requires the compensation court to specify the evidence relied upon and that the court's decisions provide the basis for a meaningful appellate review. In this case, the court gave a lengthy summary of the medical evidence. The court's summary did not include reference to every single piece of medical evidence submitted into evidence, and we read the court's order as specifying the particular evidence upon which the court relied. The court's summation of the evidence is replete with statements that the results of medical imaging are not adequate to explain Arikan's ongoing back pain, cognitive, and other symptoms. The court stated that given the limited objective evidence in the record of injury to Arikan's body, the court was at a loss to explain Arikan's condition. By this statement, we understand the court to have rejected any expert opinions which did find an explanation for Arikan's symptoms in the objective medical evidence (for example, the November 2021 causation opinion of Raikar). The court was free to do this as the trier of fact. The court's decision was sufficient to provide a basis for meaningful appellate review in compliance with Rule 11(A).

CONCLUSION

The compensation court's order of dismissal was sufficient to provide for meaningful appellate review. As Arian has not assigned error to any other aspect of the order, we affirm the court's decision.

AFFIRMED.