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HARMINDER SINGH *v.* CVS ET AL.
(AC 39484)

Alvord, Mullins and Bear, Js.

Syllabus

The plaintiff appealed from the decision of the Workers' Compensation Review Board affirming the decision of the Workers' Compensation Commissioner, who concluded that the plaintiff had reached maximum medical improvement for a compensable toe injury and that he was not entitled to benefits for total incapacity from that injury under the applicable statute (§ 31-307). *Held* that there was no merit to the plaintiff's claim that the board improperly affirmed the commissioner's determination, as the commissioner's conclusion that the plaintiff's chronic and degenerative medical condition was not caused by his compensable toe injury was sustained by the underlying facts in the record.

Argued April 20—officially released July 25, 2017

Procedural History

Appeal from the decision of the Workers' Compensation Commissioner for the Fourth District denying and dismissing the claim for certain benefits and granting in part the plaintiff's motion to correct, brought to the Workers' Compensation Review Board, which affirmed the commissioner's decision, and the plaintiff appealed to this court. *Affirmed.*

Andrew E. Wallace, for the appellant (plaintiff).

James T. Baldwin, for the appellee (named defendant).

Opinion

PER CURIAM. The plaintiff, Harminder Singh, appeals from the decision of the Workers' Compensation Review Board (board) affirming the decision of the Workers' Compensation Commissioner (commissioner), who concluded that the plaintiff had reached maximum medical improvement for a compensable toe injury and that he was not entitled to benefits for total incapacity from that injury under General Statutes § 31-307.¹ The board affirmed the commissioner's determination on the ground that the plaintiff's medical condition was the result of degenerative processes unrelated to the compensable injury. The board concluded that evidence in the record found persuasive and credible by the commissioner supported that determination. On appeal, the plaintiff claims that the commissioner improperly failed to (1) apply credible evidence in accordance with the applicable law, specifically General Statutes § 31-349, and (2) perform an analysis of the plaintiff's total disability consistent with the precedent in *Osterlund v. State*, 135 Conn. 498, 66 A.2d 363 (1949), and, therefore, the board improperly affirmed the decision of the commissioner.

After careful review of the record, including the board's well reasoned decision, and the parties' appellate briefs, we conclude that the plaintiff's claims on appeal are without merit. The board properly affirmed the commissioner's determination that the plaintiff's chronic and degenerative medical condition was not caused by his compensable toe injury. "[O]ur role is to determine whether the review [board's] decision results from an incorrect application of the law to the subordinate facts or from an inference illegally or unreasonably drawn from them [Therefore, we ask] whether the commissioner's conclusion can be sustained by the underlying facts." (Internal quotation marks omitted.) *Jodlowski v. Stanley Works*, 169 Conn. App. 103, 108, 147 A.3d 741 (2016). In this case, the answer to that question is yes, the commissioner's conclusion can be sustained by such facts.

The decision of the Workers' Compensation Review Board is affirmed.

¹ The defendants to this appeal are the named defendant, CVS, which was the plaintiff's employer, and Gallagher Bassett Services, Inc., the insurance administrator.
