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IN THE COURT OF APPEALS OF THE
STATE OF OREGON

In the Matter of the Compensation of Ronald L. Hayes,
Claimant.

Ronald L. HAYES,
Petitioner,

v.

TRIMET - TRI COUNTY METROPOLITAN
TRANSPORTATION,
Respondent.

Workers' Compensation Board
2400809;
A187142

Argued and submitted July 23, 2026.

Jodie Anne Phillips Polich argued the cause for petitioner. Also on the briefs was Law Offices of Jodie Anne Phillips Polich, P. C.

Rebecca Watkins argued the cause for respondent. Also on the brief was Jessica Fox and SBH Legal.

Before Shorr, Presiding Judge, Powers, Judge, and O'Connor, Judge.

O'CONNOR, J.

Affirmed.

O’CONNOR, J.

Claimant petitions for judicial review of a final order of the Workers’ Compensation Board that upheld employer’s denial of claimant’s mental health disorder claim. Claimant raises a single assignment of error, arguing that the board’s “finding that the medical evidence did not establish [claimant’s] employment conditions as the major contributing cause of his mental health disorder under ORS 656.802(2).” He argues that the board improperly deferred to a psychologist’s opinion that the workplace incident was not a major contributing cause of his mental health disorder, adjustment disorder. Instead, claimant argues, the evidence in the record required the board to determine that the workplace incident was the major contributing cause of his adjustment disorder. Employer responds that the board properly applied ORS 656.802 and the board’s order is supported by substantial evidence. We agree that the board correctly applied the law and its order is supported by substantial evidence. Accordingly, we affirm.

We review board orders “as provided in ORS 183.482(7) and (8).” ORS 656.298(7). Under ORS 183.482(8), “[w]e review the board’s legal conclusions for legal error and its determinations on factual issues for substantial evidence, which includes substantial reason.” *Robey v. Weir Esco*, 346 Or App 208, 213, 584 P3d 1262 (2025) (internal quotation marks omitted). “Under ORS 183.482(8)(c), substantial evidence ‘exists to support a finding of fact when the record, viewed as a whole, would permit a reasonable person to make that finding.’” *Miles v. Bi-Mart Corp.*, 316 Or App 481, 482, 504 P3d 64 (2021), *rev den*, 369 Or 705 (2022) (quoting ORS 183.482(8)(c)). The board’s order is supported by substantial reason when it “provide[s] a rational explanation of the factual findings that lead to the legal conclusion on which the order is based.” *Id.*

Claimant had the burden to establish by clear and convincing evidence that the adjustment disorder “arose out of and in the course of employment.” ORS 656.802(3)(d). As part of meeting that burden, claimant had to establish that “employment conditions were the major contributing cause

of the” adjustment disorder. ORS 656.802(2)(a). The board determined that claimant failed to meet that burden.

Claimant takes issue with the board’s treatment of the opinion of a psychologist, Dr. Wicher. Wicher diagnosed claimant with adjustment disorder with depressed features. She initially said that 60 percent of the cause of the adjustment disorder was a 2023 work event that occurred while claimant was driving a bus for employer and 40 percent of the cause was preexisting personality features, including a tendency to react strongly to stressful situations and a tendency to be conflict averse.

After her initial opinion, Wicher reviewed claimant’s complete medical record, which contained information that she had not previously reviewed. The complete medical records documented an extensive history of depressive reactions and major depressive disorder dating back to 2010 and a suicide attempt in 2014. In Wicher’s opinion, the additional information showed that claimant had insufficient coping skills and other underlying personality features prior to the 2023 work incident. Wicher changed her opinion because of the additional information. She opined that claimant’s “pre-existing personality features” were the major contributing cause of his adjustment disorder, not the 2023 work incident.

The board determined that “Dr. Wicher’s opinion does not support compensability.” Thus, the board explained, “in the absence of any other persuasive medical opinion, claimant has not established the compensability of his mental disorder claim.”

Claimant argues that the board incorrectly determined that he had a preexisting condition that was the major contributing cause of the adjustment disorder when it deferred to Wicher’s medical opinion instead of evaluating the evidence for itself. According to claimant, Wicher’s opinion that his “preexisting personality features” were the major contributing cause of the adjustment disorder improperly treats his susceptibility to adjustment disorder as a preexisting condition. *See SAIF v. Dunn*, 297 Or App 206, 215-17, 439 P3d 1011, *rev den*, 365 Or 557 (2019) (discussing the distinction between a susceptibility and a preexisting condition and identifying it as a “medical question”).

This case is controlled by our standard of review and claimant's burden below. The board properly identified and applied the legal standards governing compensability of mental disorder claims. The board determined that claimant had not met his burden to establish the compensability of the adjustment disorder. Wicher's opinion was the only expert opinion about defendant's mental health in the record. The board determined that Wicher's opinion did not establish that the 2023 work event was the major contributing cause of the adjustment disorder. Claimant did not offer an expert opinion that the 2023 work incident was the major contributing cause of his adjustment disorder, as the board observed. On that record, the board determined that claimant had failed to carry his burden to establish by clear and convincing evidence that the adjustment disorder "arose out of and in the course of employment." ORS 656.802(3)(d).

The board's order is supported by substantial evidence. A reasonable person viewing the record as whole could view the facts as the board did. The board may choose whether to credit an expert's opinion. *SAIF v. January*, 166 Or App 620, 624, 998 P2d 1286 (2000). The board was not required to discredit Wicher's opinion and determine that the work event was the major contributing cause of the adjustment disorder, particularly without an expert opinion that supported claimant's position.

To the extent that claimant argues that the board's order is not supported by substantial reason, we also reject that argument. The board's final order provided a rational explanation for why its factual findings led it to conclude that the claimant failed to meet his burden under ORS 656.802(3)(d).

Affirmed.