Alaska Workers' Compensation Appeals Commission

Juneau Glass, Appellant, vs. Timothy Bradley and State of Alaska, Workers' Compensation Benefits Guaranty Fund, Appellees.	Final Decision Decision No. 317 October 7, 2026
State of Alaska, Workers' Compensation Benefits Guaranty Fund, Cross-Appellant, vs. Juneau Glass and Timothy Bradley, Cross-Appellees.	AWCAC Appeal No. 25-007 AWCB Decision No. 25-0073 AWCB Case No. 202502469

Final Decision on appeal from Alaska Workers' Compensation Board Final Decision and Order No. 25-0073, issued at Juneau, Alaska, on November 3, 2025, by southern panel members Kyle Reding, Chair; Brad Austin, Member for Labor; Mike Dennis, Member for Industry.

Appearances: Leif Thompson, Leif Thompson Law Office, for appellant/cross-appellee, Juneau Glass; Adam R. Franklin, Law Office of Adam Franklin, attorney for appellee/cross-appellee, Timothy Bradley; Cori Mills, Acting Attorney General, and Brandon P. Oliveri, Assistant Attorney General, for appellee/cross-appellant, State of Alaska, Workers' Compensation Benefits Guaranty Fund.

Commission proceedings: Appeal filed November 25, 2025; cross-appeal filed December 3, 2025; briefing completed June 11, 2026; oral argument held July 9, 2026.

Commissioners: Nancy Shaw, Amy M. Steele, Andrew M. Hemenway, Chair.

By: Andrew M. Hemenway, Chair.

1. Introduction.

Timothy Bradley filed a claim for benefits based on an injury he alleged he incurred while installing a windshield for Juneau Glass, a business owned by his brother, Christopher Bradley. Juneau Glass did not have a workers' compensation insurance policy at the time of the alleged injury, and the State of Alaska, Workers' Compensation Benefits Guaranty Fund (Fund) was joined to the case.

The Alaska Workers' Compensation Board (Board) issued a decision concluding that Timothy Bradley had established the presumption of compensability and Juneau Glass failed to rebut it.[1] Juneau Glass timely filed an appeal and the Fund filed a cross-appeal. We conclude that the Board erred in ruling that Juneau Glass failed to rebut the presumption of compensability.

2. Summary of Testimony and Evidence.[2]

Timothy Bradley and Christopher Bradley are brothers.[3] Christopher operates a business, Juneau Glass, as a sole proprietor.[4] Timothy operated a business known as Last Frontier Cabinets and Millwork, until financial difficulties led him to cease operations

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[1] *Bradley v. Juneau Glass*, Alaska Workers' Comp. Bd. Dec. No. 25-0073 (Nov. 3, 2025) (*Bradley*).

[2] The Board's purported "Findings of Fact" are in large part summaries of testimony and Board filings, rather than statements resolving disputed factual issues. *See Bradley*, pp. 9-12 (Nos. 29-37) (summarizing hearing testimony); pp. 5 (No. 9), 6-7 (Nos. 16, 18), 7-9 (Nos. 22-28), 12 (No. 38) (summarizing Board filings). We make no factual findings. We summarize the testimony and Board filings by citation to the record and reference to the Board's summary of that testimony and the filings. (*viz.* "Tr. xx (ll. x-x). *See Bradley*, p. xx (No. x)"). Where the Board's "Findings of Fact" appear to be statements of fact based on evidence in the record, we cite to the Board's decision and refer to the relevant evidence (*viz.* "*Bradley*, p. xx (No. x). *See* R. xx").

[3] *Bradley*, p. 5 (No. 4). The testimony of both Timothy and Christopher was that they are brothers. Sept. 23, 2025, Hr'g Tr. 149 (l. 4) (Christopher Bradley testimony); Tr. 24 (ll. 4-13) (Timothy Bradley testimony). However, the Board did not attribute the sibling relationship to their testimony, or to any other evidence in the record. Rather, the Board attributed its finding to "Observations". *Bradley*, p. 5 (No. 4).

[4] Tr. 153 (ll. 22-24) (Christopher Bradley testimony). *See Bradley*, p. 11 (No. 34).

during the Covid epidemic.[5] In 2023, Christopher offered to put his brother to work at Juneau Glass, and in 2023-24 Timothy worked at the business irregularly.[6] There was no written agreement between the two regarding the working relationship.[7]

Timothy Bradley's last day of work at Juneau Glass was January 10, 2025. On that day, according to their testimony at hearing, the two brothers installed several windshields into place.[8] Timothy Bradley testified that after pulling a windshield into place, he reached across the windshield to disengage the suction cup attached to the windshield when he felt a pop in his neck.[9] He stated that at the time he "didn't think nothing of it," as he did not immediately experience any pain.[10] However, he testified, the next morning, he woke up with debilitating pain in his neck, which he initially attributed to sleeping on his neck wrong.[11]

According to their testimony, at the end of the workday on January 10, 2025, Timothy and Christopher Bradley got into a verbal altercation regarding his pay, when according to Timothy his brother failed to give him his paycheck in time to make a deposit before the bank closed; before Christopher prepared a check, Timothy stormed out of the shop and drove off.[12]

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[5] Tr. 20 (ll. 17-25), 22 (ll. 7-15) (Timothy Bradley testimony). *See Bradley*, p. 9 (No. 29).

[6] Tr. 164 (ll. 3-6) (Christopher Bradley testimony); Tr. 43 (l. 13) – 44 (l. 4) (Timothy Bradley testimony). *See Bradley*, p. 11 (No. 34).

[7] Tr. 24 (ll. 14-15) (Timothy Bradley testimony), Tr. 187 (ll. 16-21) (Christopher Bradley cross-examination). *See Bradley*, pp. 9 (No. 29), 11 (No. 34).

[8] Tr. 44-47 (Timothy Bradley testimony); Tr. 176 (l. 1) (Christopher Bradley testimony). *See Bradley*, p. 9 (No. 29).

[9] Tr. 47 (ll. 8-14) (Timothy Bradley testimony). *See Bradley*, p. 9 (No. 29). *See also* Tr. 132 (ll. 14-23) (Timothy Bradley cross-examination).

[10] Tr. 47 (ll. 14-18) (Timothy Bradley testimony). *See Bradley*, p. 9 (No. 29).

[11] Tr. 47 (ll. 20-24); 51 (ll. 18-20); 52 (ll. 1-4). (Timothy Bradley testimony). *See Bradley*, p. 9 (No. 29).

[12] Tr. 66 (l. 15) – 67 (l. 16) (Timothy Bradley testimony); Tr. 176 (l. 14) – 177 (l. 25) (Christopher Bradley testimony). *See Bradley*, p. 10 (No. 29); p. 11 (No. 34). *See also*, Tr. 157 (ll. 7-17) (Gordy Johnson testimony).

On January 13, 2025, Timothy Bradley was seen by April L. Sapp, DNP. He reported he thought he slept on his right side wrong and woke up with pain radiating from his neck down into his shoulder and armpit. Dr. Sapp diagnosed him with cervicalgia.[13] A week later Timothy Bradley was seen at the Bartlett Regional Hospital Emergency Department. He reported again that about 10 days earlier he woke up on his right side and had sharp right shoulder and neck pain that began radiating down his right arm. Lindy M. Jones, M.D., diagnosed him with cervical radiculopathy with pain, numbness, and weakness in the right-upper-extremity. Dr. Jones believed his radiculopathy symptoms were likely secondary to acute inflammation of the nerve root. Dr. Jones opined he likely had a pinched nerve in his neck and referred him to John Bursell, M.D., for further treatment.[14]

On February 21, 2025, Timothy Bradley emailed Dr. Sapp. He stated when he initially sought treatment, he thought he slept on his neck wrong, but upon reflection he remembered installing a windshield on Friday January 10, 2025, when he felt a kink in his neck. He requested Dr. Sapp provide him with a note excusing him from work for the past four weeks due to his injury.[15]

On March 4, 2025, Timothy Bradley was seen by Dr. Bursell. Dr. Bursell assessed him with neck pain with radiculopathy likely due to nerve root inflammation and attributed his injury to a work incident on January 10, 2025. Dr. Bursell provided Timothy Bradley with an off-work note from March 4, 2025, to April 1, 2025.[16]

On May 13, 2025, Megan Lindquist, PA-C, responded to a letter from the Fund. PA-C Lindquist stated Timothy Bradley was currently under her care. She reported he worked in a position that required heavy lifting repeatedly, leading to cervical spine nerve

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[13] *Bradley*, p. 4 (No. 2). *See* R. 694-96 (Dr. Sapp note, Jan. 13, 2025). *See also* Tr. 53 (ll. 10-25) (Timothy Bradley testimony).

[14] *Bradley*, p. 4 (No. 3). *See* R. 676-80 (Dr. Jones note, Jan. 21, 2025).

[15] *Bradley*, p. 5 (No. 10). *See* R. 367-68 (Email from Timothy Bradley to Dr. Sapp, 12:21 PM, Feb. 21, 2025).

[16] *Bradley*, p. 5 (No. 11). *See* R. 684-85, 690 (Dr. Bursell note, Mar. 4, 2025).

root inflammation, as seen on the cervical spine MRI obtained on January 21, 2025. She stated the work injury was the substantial cause of his need for medical treatment.[17]

On May 28, 2025, Timothy Bradley returned to Dr. Bursell for his neck pain with cervical radiculopathy. He was placed off work until June 30, 2025.[18]

On February 18, 2025, Timothy Bradley filed an injury report dated February 9, 2025, with the Division.[19] He subsequently filed a claim for benefits under the Alaska Workers' Compensation Act (Act).[20] Juneau Glass and the Fund denied all benefits.[21] Following a hearing, the Board issued a decision awarding medical benefits, as well as compensation for temporary total disability (TTD) and temporary partial disability (TPD).

3. Discussion.

On appeal, Juneau Glass argues that the Board erred because: (1) the Board ought not to have applied the presumption of compensability, because the notice of injury was late;[22] (2) Timothy Bradley did not raise the presumption;[23] (3) Christopher Bradley rebutted the presumption of compensability;[24] (4) there is no substantial evidence that Timothy Bradley incurred a work injury;[25] (5) Timothy Bradley was not an employee;[26]

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17 *Bradley*, p. 7 (No. 20). *See* R. 697 (PA-C Lindquist letter, May 13, 2025).

18 *Bradley*, p. 7 (No. 21). *See* R. 743-44, 755 (Dr. Bursell notes, May 28, 2025).

19 *Bradley*, p. 5 (No. 9). *See* R. 438-39 (Employee Report of Occupational Injury or Illness to Employer, Feb. 9, 2025).

20 *Bradley*, p. 6 (No. 13). *See* R. 049 (Claim for Workers' Compensation Benefits, Mar. 26, 2025).

21 *Bradley*, pp. 6-7 (Nos. 16, 18). *See* R. 022-24 (Controversion Notice, Apr. 15, 2025); R. 028-29 (Controversion Notice, Apr. 29, 2025).

22 Juneau Glass Brief, pp. 22-24.

23 Juneau Glass Brief, pp. 24-27.

24 Juneau Glass Brief, pp. 27-30.

25 Juneau Glass Brief, pp. 19-22.

26 Juneau Glass Brief, pp. 33-38.

(6) Timothy Bradley was not totally disabled at any time; [27] and (7) the Board did not address Juneau Glass's assertion of fraud.[28]

The Fund's notice of appeal identifies seven issues on appeal, including Juneau Glass's issues (3) and (5), and that the Board erred in: (8) not making any credibility determinations; (9) finding that Timothy Bradley was totally disabled until June 30, 2025; (10) its calculation of the TTD benefit; (11) awarding TPD benefits without considering wage earning capacity; and (12) not dismissing Timothy Bradley's claim for PPI.

a. Was the Presumption of Compensability Applicable?

AS 23.30.120(a) provides that "it is presumed, in the absence of substantial evidence to the contrary, that (1) the claim comes within the provisions of this chapter. . . ." AS 23.30.120(b) states that "[i]f delay in giving notice is excused by the board . . . , the burden of proof of the validity of the claim shifts to the employee. . . ."

Juneau Glass argues that the Board erred by not addressing his argument that the presumption of compensability established in AS 23.30.120(a)(1) was inapplicable pursuant to AS 23.30.120(b), because Timothy Bradley did not file a notice of injury within 15 days of the alleged injury, as required by AS 23.30.100(a).[29]

Timothy Bradley argues that Juneau Glass waived a defense to his claim based on the failure to provide timely notice of the injury because: (1) neither Juneau Glass nor the Fund filed an answer raising that defense, as required by 8 AAC 45.050(c)(3)(B); (2) Timothy Bradley did not have adequate notice of the defense; and (3) that issue was not raised in the prehearing summary.[30]

Juneau Glass responds that it is not raising a defense to the claim, but rather is arguing that the late notice precludes application of the presumption of compensability.[31]

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27 Juneau Glass Brief, pp. 31-33.

28 Juneau Glass Brief, pp. 38-40.

29 Juneau Glass Brief, pp. 22-24.

30 Bradley Brief, pp. 11-13.

31 Juneau Glass Reply, pp. 4-5.

To the extent Timothy Bradley argues that Juneau Glass's failure to raise this issue in an answer constitutes a waiver we disagree. The failure to raise this issue in an answer is not contrary to 8 AAC 45.050(c)(3)(B), which only requires the answer to state "whether the claim is barred under AS 23.30.100. . . ." Juneau Glass does not argue the claim is barred under AS 23.30.100, but rather that the presumption is inapplicable pursuant to AS 23.30.120(b).

We turn next to Timothy Bradley's argument that the issue of the applicability of the presumption could not be raised at the hearing because it was not identified as an issue to be heard in the prehearing conference summary (PHCS). 8 AAC 45.070(g) provides that absent a finding of unusual and extenuating circumstances, "the prehearing summary . . . governs the issues and course of the hearing." Because the factual issues of the timeliness of the injury notice and the existence of any unusual or extenuating circumstances was not identified in the PHCS as an issue for hearing, those factual issues issue could not be addressed by the Board. Since a finding that a notice of injury was untimely, but excused, is a prerequisite to a ruling that the presumption is inapplicable, the Board was unable to address in its decision Juneau Glass's argument at the hearing that the presumption was inapplicable.[32]

b. Did Timothy Bradley Raise the Presumption of Compensability?

Juneau Glass argues that Timothy Bradley's testimony that he incurred a work injury is insufficient to raise the presumption of compensability and that the medical records that the Board cited as raising the presumption simply restate Timothy Bradley's

[32] Because the predicate factual issues were not raised in the PHCS, it is unnecessary for us to consider Timothy Bradley's argument that he did not have sufficient notice to provide due process of law. We observe that although Juneau Glass's hearing brief did not mention the applicability of the presumption as an issue, counsel did advert to this issue (without reference to AS 23.30.120) in his opening and closing remarks. *See* Tr. 13 (ll. 14-24); 233 (ll. 5-16). The Fund's representative also raised the point in her closing remarks (once again, without reference to AS 23.30.120). *See* Tr. 236 (ll. 21-24), 241 (ll. 4-6).

own assertion that he tweaked his neck at work and are therefore similarly insufficient to raise the presumption.[33]

Juneau Glass's argument, like the Board's decision, conflates two distinct factual matters: first, did Timothy Bradley injure his neck at work on January 10, 2025?; and second, if he did, was that injury the substantial cause of a disability? To raise the presumption of compensability, it was Timothy Bradley's obligation to make a preliminary link as to both these factual matters.

The Board's decision states that Timothy Bradley "raises the presumption through his testimony describing the work injury. . . ."[34] This statement addresses only the first factual matter: the existence of a work injury. Because the Board does not consider credibility at this stage, it was not error for it to accept Timothy Bradley's testimony as sufficient to raise the presumption with respect to the fact of injury.

The decision goes on to state "Drs. Sapp's and Bursell's along with PA-C Lindquist's opinions that the cervical spine symptoms and need for medical treatment were caused by the work injury also raises the presumption."[35] Dr. Bursell's opinion is sufficient to raise the presumption with respect to causation, in that it supports the conclusion that **if** Timothy Bradley incurred a work injury as he described it to Dr. Bursell, then in Dr. Bursell's opinion the work injury was the substantial cause of a disability.[36]

Because Timothy Bradley's testimony is sufficient to raise the presumption with respect to the fact of injury, and Dr. Bursell's medical opinion is sufficient (given that the presumption was raised with respect to the fact of injury) to raise the presumption with

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33 Juneau Glass Brief, pp. 26-27.

34 *Bradley*, p. 26.

35 *Id.*

36 The record does not include an opinion as to causation expressed by Dr. Sapp. PA-C Lundquist's opinion was not that Timothy Bradley's condition was caused by an incident on January 10, 2025. Her opinion was that his condition was the result of working "in a position that required heavy lifting repeatedly." *Bradley*, p. 7 (No. 20). *See* R. 697. That opinion does not support Timothy Bradley's theory of causation, which was that his condition was the result of a specific injury on January 10, 2025.

respect to causation, the Board did not err in ruling that the presumption of compensability was raised.

c. Did Juneau Glass Rebut the Presumption of Compensability?[37]

The presumption of compensability "may be rebutted by a demonstration of substantial evidence that the . . . disability . . . did not arise out of and in the course of employment."[38] To overcome the presumption of compensability, the opposing party must present substantial evidence that either provides an alternative explanation absent work-related factors as a substantial cause of the disability (affirmative evidence test), or directly eliminates any reasonable possibility that employment was a factor in causing the disability (negative evidence test).[39] Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.[40] In determining whether the presumption has been rebutted, credibility is not considered.[41] The rebuttal evidence is not weighed against the evidence supporting compensability; it is viewed in isolation.[42]

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[37] Juneau Glass Brief, pp. 27-30.

[38] AS 23.30.010(a).

[39] *See Huit v. Ashwater Burns, Inc.*, 372 P.3d 904 (Alaska 2016). If we were to conclude that the presumption was not rebutted, and if this case raised an issue as to aggravation of a pre-existing condition, it would be necessary for us to address the question whether the 2005 amendments to the Act have altered the analysis of the second stage of the presumption analysis. The Alaska Supreme Court has not as yet ruled on that issue. *See Sumpter v. Fairbanks N. Star Borough Sch. Dist.*, 494 P.3d 505, 515-516 (Alaska 2021) (*Sumpter*); *Weaver v. ASRC Fed. Holding Co.*, 464 P.2d 1242, 1252 (Alaska 2020) (*Weaver*). According to the Board, however, there is no evidence of a pre-existing condition. *See infra*, note 47.

[40] *Schoppenhorst v. Property Pros, Inc.*, Alaska Workers' Comp. App. Comm'n Dec. No. 306 (Aug. 14, 2024). This formulation has been repeatedly articulated. *See*, *e.g.*, *Weaver*, 464 P.3d 1242, 1252. The Alaska Supreme Court first adopted it in 1963. *See Keiner v. City of Anchorage*, 378 P.2d 406, 411 (Alaska 1963).

[41] *See*, *Safeway, Inc. v. Mackey*, 965 P.2d 22, 27 (Alaska 1998); *Norcon, Inc. v. Alaska Workers' Comp. Bd.*, 880 P.2d 1051, 1054 (Alaska 1994).

[42] *See*, *e.g.*, *Sumpter*, 494 P.3d 505, 514; *Carlson v. Doyon Universal-Ogden Servs.*, 995 P.2d 224, 228-229 (Alaska 2000) (*Carlson*); *Veco, Inc. v. Wolfer*, 693 P.2d 865, 869 (Alaska 1985) (*Veco*). The Alaska Supreme Court has also instructed that we

Timothy Bradley initially reported that he incurred his injury at home, while sleeping. He repeated that explanation at a subsequent medical examination as well as, according to his brother's testimony, to his brother. These multiple reports present an alternative non-work-related explanation for his injury. The question raised in this appeal is whether those reports constitute substantial evidence, sufficient to rebut the presumption of compensability. It appears that the Board did not deem the reports to be substantial evidence sufficient to overcome the presumption because they were not medical evidence, that is, medical opinion evidence,[43] and Timothy Bradley argues that in the absence of medical evidence to support an alternative explanation the presumption cannot be overcome.[44] While medical opinion evidence may be required to establish or to rebut the presumption of compensability in a medically complex case, lay testimony may suffice to rebut the presumption,[45] depending "on the probative value of the lay testimony and the complexity of the medical facts involved."[46] The Board did not characterize this case as medically complex. To be sure, the case would be medically complex if there were evidence that the substantial cause of Timothy Bradley's disability was a pre-existing spinal condition, but according to the Board there was no such evidence.[47] But in the absence of any finding by the Board that this case was medically

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"'must take into account whatever in the record detracts' from the weight of evidence when we consider whether evidence is substantial." *See*, *e.g.*, *Lopez v. Adm'r, Pub. Emp. Ret. Sys.*, 20 P.3d 568, 570 (Alaska 2001). However, that formulation applies only when determining whether there is substantial evidence to support a factual finding; it does not apply when determining whether there is substantial evidence to rebut the presumption under the Act. *Sumpter*, 494 P.3d 505, 514-515.

[43] *Bradley* at 26 ("Neither Employer nor the Fund produced any medical evidence to rebut the presumption of compensability.").

[44] Bradley Brief, p. 17.

[45] *Veco*, 693 P.2d 865, 871 (Alaska 1985).

[46] *Smith v. Anchorage Sch. Dist.*, Alaska Workers' Comp. App. Comm'n Dec. No. 050 (July 25, 2007).

[47] *Bradley* at 27 ("Employer also claimed any injury to Employee's neck was likely pre-existing however, no medical reports were submitted indicating such."). *See generally*, *Sumpter*, 494 P.3d 505; *Weaver*, 464 P.2d 1242.

complex, in our view Timothy Bradley's own reports that he incurred a neck injury as a result of "sleeping on it the wrong way" is sufficient for a reasonable mind to accept as an explanation.

Timothy Bradley argues that his statements as to the origin of his injury are mere speculation, because he could not possibly know what occurred while he was sleeping.[48] But he could know that when he awakened he experienced pain, and it is not unreasonable, as it is within the realm of common experience, to attribute discomfort upon wakening to an uncomfortable sleeping position. If, as Dr. Jones opined, Timothy Bradley had a pinched nerve, it is not unreasonable to believe that a person could sleep in a position that would result in a pinched nerve. We conclude that the Board erred in deeming the evidence of an alternative explanation insufficient to overcome the presumption of compensability.

d. Is there Substantial Evidence of a Compensable Work Injury?

Juneau Glass argues that "the Board erred because it gave deference to Tim's opinion of why his neck hurt, and not deference to any actual facts or testimony that he had [hurt his neck]."[49] Juneau Glass points to Tim Bradley's testimony that he realized he hurt his neck at work sometime after his neck began to trouble him.[50] Juneau Glass argues that the Board improperly relied on *Veco*[51] in giving deference to Timothy's testimony.

The Board's reference to *Veco* is without any context to establish for what purpose the Board relied on it.[52] Juneau Glass asserts that the Board relied on it "for the proposition that there should be deference for Tim's testimony. . . . "[53] However, it appears that the Board cited the case for the proposition that in a case that is not

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48 Bradley Brief, pp. 17-18.

49 Juneau Glass Brief, p. 19.

50 Juneau Glass Brief, p. 20. *See* Tr. p. 133,

51 Juneau Glass Brief, p. 20. *See Veco*, 693 P.2d 865 (Alaska 1985).

52 *See Bradley*, p. 26.

53 Juneau Glass Brief, p. 20.

medically complex, a lay person's testimony may be relied upon to establish causation. That is a fair characterization of *Veco*, just as it is a fair characterization of *Veco* to say that in a case that is not medically complex, lay testimony may be relied upon to rebut the presumption.[54] Because the Board did not characterize this case as medically complex, it would not have been error for the Board to accept Timothy Bradley's opinion that his disabling condition was caused when he "felt a pop or kink in his neck after lifting a windshield into place at work" as sufficient to raise the presumption of compensability with respect to causation. However, we do not read the Board's decision as accepting Timothy Bradley's opinion with respect to causation as the basis for its ruling that the presumption was raised, but rather only as to the fact of injury.[55]

Juneau Glass's larger point is that there is not substantial evidence to support the Board's decision because in light of the record as a whole, Timothy Bradley's testimony is insufficient to overcome what Juneau Glass characterizes as "a mountain of opposing and impeaching evidence against him."[56] But here Juneau Glass fails to apply the correct legal standard. The Board did not make a factual finding that, more likely than not, Timothy Bradley was injured at work. Rather, it concluded that he had established the

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[54] "[T]he board was entitled to rely on Wolfer's testimony and evidence of the circumstances attending his alleged injury in October 1980 to establish causation. We believe that the board could also have relied on lay evidence to establish a *lack* of causation. We do not believe that the board would have been significantly better informed about the cause of Wolfer's injury had it required all parties to produce expert testimony." *Veco*, 693 P.2d at 871.

[55] Whether the alleged work injury occurred, that is whether Timothy Bradley "felt a pop or kink in his neck" at work, is not a matter of medical opinion. As Juneau Glass points out, *Veco* has no relevance with respect to the factual issue of whether Timothy Bradley incurred a work injury, because in that case "there was no question that the claimant had an injury at work. . . ." Juneau Glass Brief at 20. But, assuming Timothy Bradley did incur a work injury, whether that injury caused a disabling condition is a matter of medical opinion, and *Veco* teaches that in a case that is not medically complex, a lay person's opinion as to causation may suffice. In any event, in this particular case the Board also relied on medical opinion evidence that if Timothy Bradley actually incurred an injury at work at the time and in the manner he described, that injury caused his disabling condition. *See supra*, p. 9.

[56] Juneau Glass Brief, p. 21.

presumption and that Juneau Glass did not rebut it. In determining whether the presumption of compensability has been established credibility is not considered and the evidence tending to establish compensability is not weighed against the evidence tending to defeat compensability; the evidence tending to establish compensability is viewed in isolation.[57] Moreover, in order to raise the presumption it is not necessary to provide substantial evidence that a work injury occurred, but only some evidence sufficient to establish a preliminary link between employment and a disability.[58] The Board did not err in declining to assess Timothy Bradley's credibility when considering whether he had raised the presumption of compensability.

e. Was Timothy Bradley an Employee?

The Board ruled that Timothy Bradley was an employee, rather than an independent contractor. In order to be considered an independent contractor for purposes of workers' compensation benefits, a person must meet each of eight criteria listed in AS 23.30.230(a)(12). The Board found that Timothy Bradley did not qualify as an independent contractor because he did not meet three of those criteria, listed in AS 23.30.230(12)(A), (B), and (C).[59]

On appeal, the Fund argues that the Board erred in finding that there was not an express contract (AS 23.30.230(a)(12)(A)),[60] that he was not free from Juneau Glass's direction and control (AS 23.30.230(a)(12)(B)),[61] and that he did not incur most of the operational costs necessary to perform the services (AS 23.30.230(a)(12)(C)).[62]

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[57] *See*, *supra,* notes 41, 42.

[58] *See*, *e.g.*, *Cheeks v. Wismer & Becker/G.S. Atkinson, J.V.*, 742 P.2d 239, 244 (Alaska 1987).

[59] *Bradley*, p. 25.

[60] Fund Brief, pp. 6-7. Juneau Glass makes the same argument. *See* Juneau Glass Brief, p. 37.

[61] Fund Brief, pp. 7-8; Juneau Glass Brief, p. 37.

[62] Fund Brief, pp. 8-9.

i. Express Contract.

It is undisputed that there was no written agreement between Juneau Glass and Timothy Bradley. The Board ruled that because there was no written contract, there was no express contract.[63] This was error, as an express contract may be written or verbal.[64] On remand, the Board will determine whether there was an express verbal contract, and if so, what the terms of that contract were.

ii. Direction and Control.

The Board ruled that Juneau Glass had direction and control over the means and manner of providing services "because . . . [Timothy Bradly] was given daily listed tasks when he arrived at work."[65]

This, too, was error, because identifying the services to be performed is not to direct and control the means and manner of providing those services. Telling a worker what to do is common to both an employee and an independent contractor. Telling a worker how to do it is unique to employees. A distinguishing characteristic of an independent contractor is that the employer does not direct the worker in how to perform the services that the worker has been tasked with. On remand, the Board will determine whether Juneau Glass had direction and control over the means and manner of providing services, rather than merely direction and control over the services to be performed (what services to perform).

iii. Operational Costs.

The Board ruled that because Timothy Bradley was paid an hourly rate, he did not bear any of the operational costs.[66]

Again, this was error. In common experience, independent contractors frequently charge their employer an hourly rate for services performed, as, for example, Timothy

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63 *Bradley*, p. 25.

64 *See*, *e.g.*, *Martens v. Metzgar*, 524 P.2d 666, 671 n.6 (Alaska 1974).

65 *Bradley*, p. 25.

66 *Bradley*, p. 25.

Bradley's attorney in this case did in requesting an award of attorney fees.[67] That a worker is paid by the hour does not in itself establish that the worker is not an independent contractor. On remand, the Board will determine whether Timothy Bradley incurred most of the operational costs (other than materials and equipment) necessary to perform the services he was hired to perform.

f. Did the Board Improperly Award TTD (a) at Any Time or (b) After April 2, 2025?

Juneau Glass argues that the Board erred in finding that Timothy Bradley was temporarily totally disabled after April 2, 2025, because after that date "he advertised and worked at his chip repair business[.]"[68] It adds that the he was not totally disabled prior to that date, and throughout the claimed period of disability, because all that time "he was writing papers and doing pro [se] legal work[.]"[69] Timothy Bradley responds that there is substantial evidence to support the Board's decision, in that his medical providers found "that he was not medically able to return to his job [at Juneau Glass]" and the only remunerative work he performed was a "single instance repairing a chipped windshield."[70] He adds that "a disabled employee's attempt to earn some money in irregular or 'odd lot' earning opportunities while disabled does not change his disability status."[71]

The Board ruled that Timothy Bradley had proved that he was temporarily totally disabled by a preponderance of the evidence. In support of that finding, the Board stated: "In the absence of medical evidence to the contrary and relying on Dr. Bursell's opinion that [Timothy Bradley] could not work from the date of his injury until June 30, 2025 proves that [he] was temporarily totally disabled."[72]

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67 *Bradley*, p. 12 (No. 38).

68 Juneau Glass Brief, p. 32.

69 *Id.*

70 Bradley Brief, p. 20.

71 Bradley Reply, p. 7, citing *Carlson*, 995 P.2d 224 (Alaska 2000).

72 Bradley, p. 28.

The Board's recitation of the evidence references two notes addressing Timothy Bradley's ability to work authored by Dr. Bursell.[73] Those notes do not state that Timothy Bradley was precluded from returning to work at all: they merely state that he was unable to return to his prior employment with Juneau Glass. Dr. Bursell's initial note, dated March 4, 2025, states "Paperwork for limited duty status with [sic] work was given to the patient at time of visit."[74] His second note, dated April 1, 2025, states: "Work release paperwork was updated continuing his off duty work status[.]"[75] The Board's decision does not address the discrepancy between Dr. Bursell's initial note indicating a limited duty work release and subsequent notes authored by PA-C Lundquist, another provider in Dr. Bursell's office, checking a box marked "Patient should not work at this time"[76] and did not consider whether the "off duty status" referenced in Dr. Bursell's second note referred to return to work at Juneau Glass, or to a broader category of work.

Because disability is a function of a reduction in wage earning capacity, the Board's cursory reference to "Dr. Bursell's opinion", coupled with its failure to address whether Dr. Bursell's initial note referencing "limited duty status" precluded any remunerative work, or merely a return to his previous position with Juneau Glass, deprives us of an adequately reasoned explanation for its finding of a temporary total disability, particularly in the absence of a discussion of any non-medical factors relevant to a finding of disability.[77] We will therefore remand this aspect of the case.

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[73] Bradley, p. 5 (No. 11) (Mar. 4, 2025), p. 6 (No. 14) (Apr. 1, 2025). *See* R. 685, 687. The Board recitation also references a note authored by Dr. Bursell dated May 28, 2025. Bradley, p. 7 (No. 21). That document, however, does not include any language addressing Timothy Bradley's work status. *See* R. 743-744.

[74] R. 685.

[75] R. 687.

[76] *See* R. 749-750, 753-755.

[77] See generally, *J.B. Warrack Co. v. Roan*, 418 P.2d 986, 988 (Alaska 1966); *Vetter v. Alaska Workers Comp. Bd.*, 524 P.2d 264, 266 (Alaska 1974).

g. Did the Board Improperly Disregard Juneau Glass's Claim of Fraud?

Juneau Glass argues that the Board should have addressed whether Timothy Bradley should be ordered to reimburse any benefits he has obtained, pursuant to AS 23.30.240(b).[78]

Because this issue was not identified in the PHCS, it could not be raised at the hearing, and the Board's failure to address it is therefore not error.[79]

h. Did the Board Err in Not Making Credibility Determinations?

The Board ruled that Timothy Bradley was temporarily totally disabled from the date of injury until June 30, 2025, "relying on Dr. Bursell's opinion[.]"[80] The Fund argues this was error, because Dr. Bursell based his opinion on Timothy Bradley's statements to him that he injured himself at work, and the Board did not assess the credibility of those statements by Timothy Bradley.[81] But the relevant opinion offered by Dr. Bursell was that Timothy Bradley was disabled from returning to work for Juneau Glass, not that his condition was the result of a work injury. Dr. Bursell's opinion regarding a return to work at Juneau Glass was based on his clinical findings, not on anything Timothy Bradley said to him about the cause of his condition; Timothy Bradley's credibility as to causation is irrelevant to Dr. Bursell's opinion as to returning to work at Juneau Glass.

i. Did the Board Improperly Award TTD After April 2, 2025?

The Fund argues that the Board erred in awarding TTD benefits after April 2, 2025, when Timothy Bradley advertised his availability for work repairing windshields.[82] As we explained above, with reference to Juneau Glass's argument, the matter of TTD will be remanded.

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78 Juneau Glass Brief, pp. 38-40.

79 *See* 8 AAC 45.070(g).

80 *Bradley*, p. 28.

81 Fund Brief, pp. 11-12.

82 Fund Brief, pp. 13-14.

j. Did the Board Properly Calculate the TTD Benefit?

Compensation for TTD is 80 percent of the employee's spendable weekly wage.[83] The Board made no findings regarding Timothy Bradley's spendable weekly wage. Assuming that, upon remand, the Board finds that Timothy Bradley was temporarily totally disabled, it shall determine the spendable weekly wage and his compensation rate for TTD.

k. Did the Board Improperly Disregard Wage Earning Capacity?

Compensation for TPD is 80 percent of the difference between the employee's spendable weekly wage before the injury and the employee's wage earning capacity after the injury in the same or another employment.[84] The Board made no findings with respect to Timothy Bradley's spendable weekly wage or his post-injury wage earning capacity. Assuming that, upon remand, the Board finds that Timothy Bradley was temporarily partially disabled, it shall determine his spendable weekly wage and post-injury earning capacity and his compensation rate for TPD.

l. Did the Board Err in Not Dismissing the Claim for PPI?

The Fund did not address this issue in its brief, and we consider it waived for purposes of this appeal.

4. Order.

The Board's ruling that Juneau Glass failed to rebut the presumption compensability is REVERSED.

The Board's order and its findings that Timothy Bradley was an employee of Juneau Glass and that he was temporarily totally disabled are VACATED.

This case is REMANDED for the Board to determine by a preponderance of the evidence whether Timothy Bradley was an independent contractor, whether he incurred a disabling injury while working on January 10, 2025, and, if so, whether and for what periods of time his disability was total or partial and his compensation rate. The Board

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83 AS 23.30.185; AS 23.30.220.

84 AS 23.30.200.

may, in its discretion, address AS 23.30.230(a)(12)(D)-(H), conduct additional hearings, and solicit additional briefing. We do not retain jurisdiction.

Date: October 7, 2026 Alaska Workers' Compensation Appeals Commission

Signed
Nancy Shaw, Appeals Commissioner

Signed
Amy M. Steele, Appeals Commissioner

Signed
Andrew M. Hemenway, Chair

PETITION FOR REVIEW

A party may file a petition for review of this decision with the Alaska Supreme Court as provided by the Alaska Rules of Appellate Procedure (Appellate Rules). *See* AS 23.30.129(a) and Appellate Rules 401 – 403. If you believe grounds for review exist under Appellate Rule 402, you should file your petition for review not later than 10 days after the date shown in the Certificate of Distribution below.

You may wish to consider consulting with legal counsel before filing a petition for review. If you wish to petition for review to the Alaska Supreme Court, you should contact the Alaska Appellate Courts *immediately*:

Clerk of the Appellate Courts
303 K Street
Anchorage, AK 99501-2084
Telephone: 907-264-0612

RECONSIDERATION

A party may ask the Commission to reconsider this order by filing a motion for reconsideration not later than 10 days after the date shown in the Certificate of Distribution below. If a request for reconsideration of this order is filed on time with the Commission, any proceedings to file a petition for review with the Alaska Supreme Court must be instituted not later than 10 days after the date shown in the Certificate of Distribution of the reconsideration decision.

I certify that, with the exception of changes made in formatting for publication, this is a full and correct copy of Final Decision No. 317 issued in the matter of *Juneau Glass v. Timothy Bradley and State of Alaska, Workers' Compensation Benefits Guaranty Fund*, AWCAC Appeal No. 25-007, and distributed by the Alaska Workers' Compensation Appeals Commission in Anchorage, Alaska, on October 7, 2026.

Date: *November 3, 2026*

Signed

K. Morrison, Appeals Commission Clerk