

No. 1-15-3164

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

ROBERT M. RYCRAFT,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 14 CH 17858
)	
VILLAGE OF SOUTH BARRINGTON POLICE)	
PENSION FUND, THE BOARD OF TRUSTEES OF)	
THE VILLAGE OF SOUTH BARRINGTON POLICE)	
PENSION FUND, and the members of THE)	
BOARD OF TRUSTEES OF THE VILLAGE OF)	
SOUTH BARRINGTON POLICE PENSION FUND;)	
RAYMOND CORDELL, SAMUEL LOPEZ, JAMES)	
WEIDIG, JOSEPH ABBOTT, and LOUIS MATUSKA,)	Honorable
)	David B. Atkins,
Defendants-Appellants.)	Judge Presiding.

JUSTICE HOWSE delivered the judgment of the court.
Justices Ellis and Cobbs concurred in the judgment.

O R D E R

¶ 1 *Held:* Plaintiff was entitled to a line-of-duty disability pension where the manifest weight of the evidence established that his disabling injury occurred in the line of duty; circuit court judgment reversing the Board's decision is affirmed.

¶ 2 Defendants, the Village of South Barrington Police Pension Fund, the Board of Trustees of the Village of South Barrington Police Pension Fund, and the members of the Board of Trustees of the Village of South Barrington Police Pension Fund, Raymond Cordell, Samuel Lopez, James Weidig, Joseph Abbott, and Louis Matuska (Board) appeal from an order of the circuit court of Cook County reversing the Board's determination that plaintiff Robert Rycraft was entitled to a non-duty disability pension pursuant to section 3-114.2 of the Illinois Pension Code (Code) (40 ILCS 5/3-114.2 (West 2014)), and awarding him a line-of-duty disability pension pursuant to section 3-114.1(a) of the Code (40 ILCS 5/3-114.1(a) (West 2014)). On appeal, the Board contends that plaintiff failed to establish that his disabling injury occurred in the line of duty and, accordingly, the circuit court erred in reversing the Board's decision. For the following reasons, we affirm the judgment of the circuit court.

¶ 3 **I. Background**

¶ 4 Plaintiff began working part-time for the South Barrington Police Department in April 2003 and was hired to work full-time in January 2005. On October 22, 2013, he applied for a line-of-duty disability pension. The Board held an administrative hearing regarding plaintiff's application on September 2, 2014. At the hearing, the Board heard plaintiff's testimony and received exhibits, including medical records and correspondence from physicians who had treated or examined plaintiff. We set forth only the evidence relevant to this appeal.

¶ 5 **A. Plaintiff's Testimony**

¶ 6 At the hearing, plaintiff testified that he was on duty on February 24, 2013, checking the houses of people who had gone out of town. Outside one house, he slipped on "snow and ice"

and his legs separated "like the splits." He felt pain in his groin and had difficulty walking, but continued to the house and noticed a door was unlocked. While entering the house, he slipped on the hardwood floor and fell "forward and down," but steadied himself by "reach[ing] up" with his right hand to grab the doorframe and support his weight with his "right arm and shoulder." At the time, he did not feel any "symptoms" in his right arm or shoulder. However, he called his supervisor, described the two slipping incidents, and mentioned the pain in his groin. Afterwards, he secured the premises and checked other houses. In one yard, plaintiff's right leg "went through" a pool cover and he "fell forward," striking the ground with his arms "straight out." Throughout the day, he felt pain in his right knee and groin but not in his right shoulder or arm.

¶ 7 On February 28, 2013, after several days off work, plaintiff saw Dr. Tassler and complained about his groin and knee. Dr. Tassler gave plaintiff pain medication and told him to rest, but a few days later he felt stiffness and soreness in his back, neck, and shoulder. The pain worsened when he turned his neck or lifted his arm above his waist. He returned to work on March 4, 2013, but left early due to pain. That day, he sent an email to Dr. Tassler stating that his "groin area" was sore and that he thought he had "pulled [or] pinched a nerve in [my] back / shoulder area." Plaintiff wrote that he had been taking "tylenol" rather than "meloxicam," and asked whether meloxicam would "help" his back and shoulder. Dr. Tassler responded to the email and, following another appointment on March 7, 2013, recommended that plaintiff receive physical therapy.¹

¹ Plaintiff's email appears in the administrative record, but Dr. Tassler's response does not.

¶ 8 Plaintiff began physical therapy on March 27, 2013. His groin and knee pain improved but his neck and shoulder pain worsened. Dr. Tassler recommended an MRI for plaintiff's cervical spine, thoracic spine, and right shoulder. After reviewing the MRI, Dr. Tassler recommended that plaintiff receive additional therapy for his neck and see Dr. Portland, an orthopedic shoulder specialist, for his shoulder.

¶ 9 On May 28, 2013, plaintiff saw Dr. Portland and told him about the pain in his right shoulder, explaining that he "fell at work, slipped once grabbing the door, and then once I fell forward and stopped myself." Dr. Portland reviewed the MRI, examined plaintiff's shoulder, and recommended surgery.

¶ 10 On May 30, 2013, the Board and its workers' compensation insurance carrier sent plaintiff to Dr. Mercier for an evaluation related to his claim for workers' compensation benefits. Plaintiff told Dr. Mercier's nurse about the "mechanics" of how he fell, but he did not remember Dr. Mercier asking about "how [he] fell" or "how [his] arms reacted." Based on Dr. Mercier's opinion, plaintiff was denied workers' compensation.

¶ 11 Dr. Portland performed the surgery on July 17, 2013, repairing a labral tear in plaintiff's right shoulder. Afterwards, plaintiff received physical therapy and his shoulder improved but remained painful.

¶ 12 Plaintiff applied for a line-of-duty disability pension on October 22, 2014. At the pension board's request, plaintiff was evaluated by Drs. Stamelos, Suchy, and Levin in April 2014. He told each doctor about his symptoms and responses to treatment, but did not recall whether he "showed" or "explained" to the doctors the position of his arm when the injury occurred.

However, plaintiff stated that he was "consistent" in what he told or demonstrated to each doctor.

¶ 13 After seeing the three doctors, plaintiff underwent another MRI. Dr. Portland recommended a second shoulder surgery, which he performed on July 18, 2014.

¶ 14 At the time of the hearing, Dr. Portland had not released plaintiff to return to work, and he continued to receive physical therapy for his right arm, shoulder, and neck. He experienced headaches "from the neck area" and had pain in his right shoulder "from the back up through the scapular area into the top area right in the front." His shoulder was "very weak" and had a reduced range of motion, but had shown improvement. According to plaintiff, Dr. Portland advised that he would either "return to work or be checked" in the "next few months."

¶ 15 **B. Correspondence Between Deputy Chief Cordell and Dr. Tassler**

¶ 16 In an April 19, 2013, letter, South Barrington Deputy Chief Cordell asked Dr. Tassler, whether the pain in plaintiff's back, neck, and right shoulder was "related to the on duty fall" in February 2013. In Dr. Tassler's response, dated April 24, 2013, he stated that he considered plaintiff's "back, neck, and related shoulder discomfort *** the result" of the on-duty injury from February 2013.

¶ 17 **C. Dr. Portland's Progress Note**

¶ 18 Defendant's medical record includes a "progress note" from Dr. Portland, dated May 28, 2013. In the note, Dr. Portland stated that plaintiff "fell two times in a 45-minute stretch" while conducting a "housewatch" on "February 26, 2013." During the first incident, plaintiff "reach[ed] out and brace[d] himself as he slipped and he reported immediate pain." During the second incident, he "slipped" while "hold[ing] onto a doorframe." Since then, plaintiff reported

"shoulder pain" and "thoracic discomfort." According to Dr. Portland, the MRI of plaintiff's right shoulder showed "evidence of tearing of the posterior labrum," "cuff tendinosis," and "[m]ild bursal irritation of the cuff." Dr. Portland also stated that the cervical MRI showed "evidence of some small disc herniations," and that the thoracic MRI showed "no substantial abnormality of the thoracic spine." Dr. Portland stated that he discussed the "natural history" of the shoulder injury with plaintiff. Additionally, Dr. Portland opined that "a lot of [plaintiff's] pain by his thoracic spine is not related to the shoulder," and that this was "medically consistent with the described incident."

¶ 19

D. Dr. Mercier's Letter to the Board

¶ 20 In a May 30, 2013, letter to "Woodlake Medical" regarding his examination of plaintiff, Dr. Mercier stated that plaintiff reported that he "slipped on ice, twisted and fell[,] and injured his neck, right shoulder and mid back" during a house check on February 24, 2013. Dr. Mercier referenced a "report" and "memo," both dated February 24, 2013, which stated that plaintiff injured his groin by "stepping over a pile of snow" and falling "through a pool cover." Dr. Mercier noted that Dr. Tassler diagnosed plaintiff with a "groin strain" and "right knee strain" on February 28, 2013, but "there is no documentation in the medical records, I have, of a neck, mid back, low back, or shoulder problem" as of that date. According to Dr. Mercier, plaintiff did not complain about back and neck pain until March 7, 2013. Consequently, Dr. Mercier concluded that plaintiff "did not injure these body parts as a result of alleged events on February 24, 2013," and "all subsequent medical care, testing, lost time from work, work restrictions and disability

for problems other than [plaintiff's] groin and right knee *** is not related to alleged events on February 24, 2013."

¶ 21

E. Dr. Stamelos' Letter to the Board

¶ 22 In an April 16, 2014, letter to the Board regarding his examination of plaintiff, Dr. Stamelos stated that plaintiff reported "three separate episodes" that occurred while he conducted home inspections on February 24, 2013. First, plaintiff slipped in the snow and "did a straddle split injuring his groin and right knee." Then, as he stepped into a house, he grabbed the door with his right hand and his foot slipped. However, plaintiff was unsure whether he injured his shoulder at that time because the incident did not cause immediate pain. Later, he "put his foot through the canopy" of a swimming pool, straining his knee and right foot. According to Dr. Stamelos, "the medical records were not very clear initially if [plaintiff] had any specific claims of right shoulder pain," and "for the first week or to [sic] *** his chief complaints were for groin, knee, and upper back discomfort." Dr. Stamelos observed that Dr. Mercier had opined that plaintiff did not injure his shoulder as a result of the incidents on February 24, 2013.

¶ 23 Notwithstanding, after examining plaintiff and reviewing records from Drs. Portland and Mercier, physical therapy notes, the MRI, and an x-ray, Dr. Stamelos stated with "medical and orthopedic certain[ty]" that plaintiff's shoulder injury occurred "as the result of the injuries described on February 24, 2013," and was "consistent" with "slip[ing] while hanging onto the door." Although plaintiff did not initially complain about shoulder pain, he did complain about "posterior back pain," which "can sometimes be seen in these posterior labral tears that do not present with initial shoulder pain." Consequently, Dr. Stamelos concluded that plaintiff's surgery

was "directly related to the injury of February 24, 2013." He certified that plaintiff was "not permanently disabled" from police service.

¶ 24 **F. Dr. Suchy's Letter to the Board**

¶ 25 In an April 21, 2014, letter to the Board regarding his examination of plaintiff, Dr. Suchy stated that plaintiff reported slipping on two occasions while conducting a "house watch" on "2/26/13." The first time plaintiff slipped, he grabbed a door frame, "causing a traction type injury to [his] right arm." The second time he slipped, he fell through a "pool cover" and landed "directly on both outstretched arms." After examining plaintiff and reviewing Dr. Portland's records, the MRI, and physical therapy notes, Dr. Suchy found "based on a reasonable degree of medical and orthopedic surgical certainty that there is a causal relationship between claimant's pathology of the right shoulder and the slip and fall injures [*sic*]." ² Dr. Suchy certified that plaintiff was "not permanently disabled" from police service.

¶ 26 **G. Dr. Levin's Letter to the Board**

² As plaintiff notes in his response brief, the record omits two pages from Dr. Suchy's letter to the Board, including the page from which this quote is taken. Plaintiff has included both pages as appendices to his response brief. However, on appeal, we generally cannot consider evidence that appears only in the appendix of a brief and not in the record on appeal. *Jones v. Police Board*, 297 Ill. App. 3d 922, 930 (1998). Nonetheless, Dr. Suchy's quote appears in the trial court's written order, which is included in the record on appeal. Therefore, it appears that the missing pages were before the trial court. Further, the Board, as appellant, had "the burden to present a sufficiently complete record of the proceedings at trial to support a claim of error," and "[a]ny doubts which may arise from the incompleteness of the record will be resolved against the appellant." *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). Lastly, the Board, in its reply brief, states that it "does not contest the fact that *** Dr. Suchy found a connection between Plaintiff's fall on February 24, 2013 and his disabling shoulder injury." For these reasons, we will consider Dr. Suchy's opinion as to the cause of plaintiff's shoulder injury.

¶ 27 In an April 28, 2014, letter to the Board regarding his examination of plaintiff, Dr. Levin stated that plaintiff reported three incidents that occurred while conducting house watches on February 24, 2013. During the first incident, plaintiff "slipped on snow and ice," did "the splits," and felt groin pain. Afterwards, he slipped on the floor of a house and "grabbed the door frame with his right arm," but "had no problems or pain." Finally, at another house, "his right leg went through the cover" of a pool and he fell forward, landing on his hands and knees.

¶ 28 After reviewing plaintiff's "history, physical exam, radiographs, and medical records," Dr. Levin stated that the "shoulder complaint was not first documented until approximately two months" after the February 2013 incident, and involved the "neck and thoracic area and not directly *** the shoulder." According to Dr. Levin, "the mechanism of injury that [plaintiff] describes of falling into a pool cover or even slipping on ice is not substantiating the shoulder pathology." Consequently, Dr. Levin concluded that he "cannot substantiate any true shoulder pain consistent with [plaintiff's] shoulder surgery related to [the] injury date" of February 24, 2013. Dr. Levin certified that plaintiff was "not permanently disabled" from police service.

¶ 29 **H. Dr. Tassler's Unaddressed Letter**

¶ 30 The administrative record contains an unaddressed letter written by Dr. Tassler, dated August 13, 2014. In the letter, Dr. Tassler stated that plaintiff "developed symptoms in his right shoulder around the time of, and in association with, his on the job injury in February 2013." Dr. Tassler further stated that plaintiff "first presented to my office with the injury on February 28, 2013," and reported back and shoulder discomfort in an email from March 4, 2013. According to Dr. Tassler, "[i]t is not uncommon for symptoms of injuries to develop subsequent to an actual

point of injury, especially when there are other more immediate symptoms of injuries which draw more attention."

¶ 31

I. The Board's Decision

¶ 32 Following the administrative hearing, the Board unanimously voted to deny plaintiff's request for a line-of-duty disability pension, and instead awarded him a non-duty disability pension. In its written decision, the Board found that plaintiff experienced three "episodes" while conducting "house watches" on "February 26, 2013." First, plaintiff slipped in snow, injuring his groin and right knee. Then, he stepped inside a house, slipped, and "grabb[ed] a door frame for balance" but "did not remember shoulder pain with this incident." Finally, he "put his foot through the cover of an in-ground pool landing on his hands and knees." According to the Board, plaintiff "notified his supervisor of the injury three days later *** complaining of pain in his shoulder, upper back, right knee, right foot and groin." The Board also found that plaintiff "did not file any report *** to his supervisor of a shoulder injury," and that "reports prepared immediately following the incident," including Dr. Tassler's "initial examination," did not document a shoulder injury.

¶ 33 The Board acknowledged that Drs. Suchy and Stamelos found that plaintiff's shoulder injury had been caused by the incident on February 24, 2013. However, the Board stated that both doctors "relied solely" on plaintiff's explanation of how the injury occurred, and neither doctor had been provided with "all accident reports." The Board noted that an MRI was not performed until two months after the incident, and that Dr. Mercier concluded "there was no injury to [plaintiff's] shoulder as the result of the three falls" on February 24, 2013. Moreover,

the Board observed that Dr. Levin found that plaintiff's injury was not documented until two months after his initial treatment, and would not have resulted from "falling into a pool [c]over or even slipping on ice." Consequently, the Board concluded that plaintiff did not establish that his shoulder injury resulted from a work-related incident.

¶ 34 **J. Plaintiff's Appeal to the Circuit Court**

¶ 35 Plaintiff filed a petition in the circuit court of Cook County for administrative review of the Board's decision. On September 30, 2015, the circuit court issued a written order reversing the Board's decision and awarding plaintiff a line-of-duty disability pension. The Board appealed.

¶ 36 **II. Analysis**

¶ 37 On appeal, the Board concedes that plaintiff suffered a disabling shoulder injury but contends that he did not establish that the injury occurred in the line of duty or resulted from an act of duty unique to a police officer. The Board observes that plaintiff neither reported his shoulder injury to the police department on February 24, 2013, the date he claims to have been injured, nor mentioned the injury to Dr. Tassler on February 28, 2013, the date of plaintiff's first doctor's appointment. Rather, the Board argues the shoulder injury was not documented until plaintiff sent an email to Dr. Tassler on March 4, 2013, and even then, plaintiff did not "connect" the injury to an on-duty incident. According to the Board, Drs. Tassler, Stamelos, and Suchy were discredited for relying "solely" on plaintiff's explanation of how the injury occurred, whereas Dr. Levin considered "objective medical evidence" about the "mechanics" of the incidents on February 24, 2013, and, like Dr. Mercier, did not find evidence that plaintiff injured

his shoulder in the manner alleged. Moreover, the Board argues that no "medical evidence" explains why plaintiff did not feel his shoulder injury for 10 days after the injury. Consequently, although some "evidence in the record [supports] Plaintiff's contention that he suffered his shoulder injury in the line of duty," the Board maintains "it is not clearly evident that Plaintiff injured his shoulder in the way that he describes," and therefore, the Board's reliance on Dr. Levin's opinion was not against the manifest weight of the evidence.

¶ 38 Plaintiff, in response, contends that he established his shoulder injury occurred in the line of duty when he testified that he slipped and grabbed a door frame while performing house checks on February 24, 2013, described the incident consistently to each physician, and never suggested the injury resulted from a subsequent accident. Additionally, plaintiff notes that Drs. Tassler, Portland, Suchy, and Stamelos all found a "causal relationship" between the shoulder injury and the incident in the doorway. According to plaintiff, the Board erred in accepting the opinions of Drs. Levin and Mercier, whose letters mentioned neither the incident in the doorway nor the email regarding shoulder pain that plaintiff sent to Dr. Tassler soon afterwards. As Drs. Levin and Mercier failed to address all the relevant evidence, plaintiff maintains that the Board's reliance on their opinions contradicted the manifest weight of the evidence.³

³ Plaintiff also argues that Dr. Levin and Dr. Mercier's opinions contradicted the Board's finding that plaintiff notified his supervisor of shoulder pain three days after the incident and, moreover, that the Board should be precluded from citing Dr. Mercier's opinion on appeal after failing cite his opinion in its decision. Neither claim has merit, as no evidence in the administrative record substantiates the Board's finding that plaintiff notified his supervisor of the shoulder injury and, as the Board correctly notes in its reply brief, its decision cited Dr. Mercier's opinion.

¶ 39 In reply, the Board acknowledges that "no explicit evidence" establishes that plaintiff injured his shoulder in an intervening accident, but urges that plaintiff's complaints about shoulder pain do not prove that he injured his shoulder in the manner alleged. Moreover, the Board argues it is irrelevant whether Dr. Levin knew that plaintiff complained about shoulder pain in the March 4, 2013, email to Dr. Tassler, as Dr. Levin found it was "medically impossible" for the injury to have occurred as plaintiff described.

¶ 40 When reviewing administrative findings, we review the final decision of the administrative agency and not the determination of the circuit court. *Wade v. City of North Chicago Police Pension Board*, 226 Ill. 2d 485, 504 (2007). The plaintiff in the administrative proceeding bears the burden of proof. *Id.* at 505. Rulings on questions of fact, including whether a work injury is a cause of a claimant's disability, will be reversed only if the agency's decision is against the manifest weight of the evidence. *Id.* at 504; *Carrillo v. Park Ridge Firefighters' Pension Fund*, 2014 IL App (1st) 130656, ¶ 22. An agency's decision "is against the manifest weight of the evidence only if the opposite conclusion is clearly evident." *Wade*, 226 Ill. 2d at 504-05 (quoting *Abrahamson v. Illinois Department of Professional Regulation*, 153 Ill. 2d 76, 88 (1992)). In considering an agency's factual findings, reviewing courts do not weigh the evidence or substitute their judgment for that of the agency. *Marconi v. Chicago Heights Police Pension Board*, 225 Ill. 2d 497, 534 (2006). Therefore, the "mere fact that an opposite conclusion is reasonable or that the reviewing court might have ruled differently will not justify reversal of the administrative findings." *Abrahamson*, 153 Ill. 2d at 88.

¶ 41 The deference accorded to an agency's decision, however, "is not without limitation." *Rose v. Board of Trustees of the Mount Prospect Police Pension Fund*, 2011 IL App (1st) 102157, ¶ 96; see also *Wade*, 226 Ill. 2d at 507 ("Even under the manifest weight standard *** the deference we afford the administrative agency's decision is not boundless"). A reviewing court may reject an agency's findings that clearly contradict the manifest weight of the evidence. *Bowlin v. Murphysboro Firefighters Pension Board of Trustees*, 368 Ill. App. 3d 205, 211-12 (2006) ("Even when the decision is supported by some evidence, which if undisputed would sustain the administrative finding, it is not sufficient if upon a consideration of all the evidence the finding is against the manifest weight."). As this court has explained, "[a] reviewing court will not hesitate to grant relief where the record does not show evidentiary support for the agency's determination." *Id.* at 212.

¶ 42 Section 3-114.1(a) of the Code states that a police officer is entitled to a line-of-duty disability pension if, "as the result of sickness, accident or injury incurred in or resulting from the performance of an act of duty," the officer "is found to be physically or mentally disabled for service in the police department, so as to render necessary his or her suspension or retirement from the police service." 40 ILCS 5/3-114.1(a) (West 2014). In contrast, Section 3-114.2 of the Code states that a police officer is entitled to a non-duty disability pension if he or she "becomes disabled as a result of any cause other than the performance of an act of duty, and *** is found to be physically or mentally disabled so as to render necessary his or her suspension or retirement from police service." 40 ILCS 5/3-114.2 (West 2014).

¶ 43 The Code does not require "that the officer be injured *by* an act of duty to be entitled to duty-related disability benefits, but only that the officer be disabled by an injury incurred in the *performance of an act of duty.*" (Emphasis in original.) *Wagner v. Board of Trustees of Police Pension Fund of Belleville*, 208 Ill. App. 3d 25, 29 (1991) (citing *Johnson v. Retirement Board of the Policemen's Annuity and Benefit Fund*, 114 Ill. 2d 518, 522 (1986)). In order to obtain a line-of-duty disability pension, a plaintiff must prove that the duty-related injury " 'is a causative factor contributing to the claimant's disability.' " *Scepurek v. Board of Trustees of Northbrook Firefighters' Pension Fund*, 2014 IL App (1st) 131066, ¶ 27 (quoting *Luchesi v. Retirement Board of the Firemen's Annuity & Benefit Fund*, 33 Ill. App. 3d 543, 550 (2002)). It is a pension board's function to resolve conflicts in the medical evidence. *Swanson v. Board of Trustees of Flossmoor Police Pension Fund*, 2014 IL App (1st) 130561, ¶ 31. However, a pension board should not rely on the opinion of a doctor who "failed to consider or to base his opinion on relevant, material evidence that was key under the circumstances of [the] case." (Internal quotation marks omitted.) *Wade*, 226 Ill. 2d at 507.

¶ 44 Here, the Board found that plaintiff failed to establish that he injured his shoulder in the line of duty and, therefore, granted plaintiff a non-duty disability pension rather than a line-of-duty disability pension. For the reasons that follow, we find this conclusion to be against the manifest weight of the evidence.

¶ 45 To establish his eligibility for a line-of-duty disability pension, plaintiff was required to show that (1) he was employed as a police officer; (2) he sustained an injury while performing an act of duty; (3) the act of duty was unique to a police officer; and (4) the injury rendered him

physically or mentally disabled from service in the police department. 40 ILCS 5/3-114.1(a) (West 2014). In this case, the parties concur that plaintiff was employed as a full-time police officer and that he suffered a shoulder injury that rendered him physically disabled from police service. Additionally, it is uncontested by the parties that performing house checks was an act of duty unique to a police officer.⁴ See *Johnson*, 114 Ill. 2d at 521-22 ("officers assigned to duties that involve protection of the public discharge their responsibilities by performing acts which are similar to those involved in many civilian occupations," including "entering a building").

¶ 46 Based on the foregoing, the only question on appeal is whether plaintiff proved that he injured his shoulder while conducting house checks on February 24, 2013. In his testimony, plaintiff described three episodes from that day. First, outside one of the houses, he slipped on ice and injured his groin. Then, inside the house, he slipped and grabbed a doorframe with his right hand. Finally, he stepped on a pool covering and fell with his arms "straight out."

¶ 47 The letters and medical records provided by Drs. Suchy, Stamelos, and Tassler all substantiated that plaintiff injured his shoulder during the second of these three episodes. Dr. Suchy, in his letter to the board, identified a "causal relationship" between plaintiff's shoulder injury and two "slip and fall" incidents, including when plaintiff "slipped" and "grabbed a door frame." Dr. Stamelos, in his letter to the Board, stated that plaintiff's shoulder injury was "consistent" with "slip[ing] while hanging onto a door." Additionally, Dr. Tassler, in his letter to Deputy Chief Cordell, stated that plaintiff's "shoulder discomfort" resulted from his on-duty injury in February 2013. Notably, Drs. Tassler and Stamelos both observed that plaintiff's

⁴ The Board, in its briefs, asserts that plaintiff did not establish that his injury resulted from an act of duty unique to a police officer, but sets forth no argument in support of this point.

shoulder symptoms could have developed after the injury, with Dr. Stamelos noting that "posterior back pain *** can sometimes be seen in these posterior labral tears that do not present with initial shoulder pain."

¶ 48 The Board relied on the opinions of Drs. Levin and Mercier in finding that plaintiff did not establish that his shoulder injury occurred in the line of duty. Unlike Drs. Suchy, Stamelos, and Tassler, however, Drs. Levin and Mercier did not squarely address whether plaintiff's injury could have occurred when he slipped and grabbed the doorframe. Dr. Levin concluded that plaintiff's shoulder injury could not have resulted from "slipping on ice" or "falling into a pool," but expressed no opinion whether the injury could have occurred when plaintiff stepped into the house, slipped, and grabbed the door frame with his right hand. Similarly, Dr. Mercier's letter stated that plaintiff "stepp[ed] over a snow pile" and "fell through a pool cover," but did not mention that plaintiff also slipped as he stepped into the house. Moreover, neither doctor acknowledged plaintiff's email to Dr. Tassler, which indicated that plaintiff had complained of shoulder pain as early as March 4, 2013. As neither Drs. Levin nor Mercier expressed an opinion as to whether plaintiff could have injured his shoulder by slipping and grabbing the door frame, their letters are not evidence that plaintiff could not have injured his shoulder in the manner he described, and do not support the Board's finding that plaintiff's disability was non-duty related.

¶ 49 The Board's reliance on medical opinions which did not address all the facts of the case makes the present case similar to our supreme court's decision in *Wade*. In *Wade*, the plaintiff, a police officer with a preexisting condition in his right knee, fell while escorting a prisoner and sustained two tears in his right knee. *Wade*, 226 Ill. 2d at 491-92. The plaintiff had two surgeries

but was unable to return to full duty. *Id.* at 491. Four doctors found that the plaintiff was disabled and that his injury was caused, or possibly aggravated, by the work incident. *Id.* at 496-99. A fifth doctor found that the plaintiff was not disabled and that his injury resulted from his preexisting condition. *Id.* at 501. The Board denied the plaintiff a line-of-duty disability pension based on this latter opinion. *Id.* On review, however, the court found that the doctor's report had misstated the evidence and showed that he "selectively disregarded, failed to recall, or never reviewed portions of plaintiff's medical records." (Internal quotation marks omitted.) *Id.* at 506. Consequently, the court found that the Board erred in relying solely upon that doctor's opinion to deny the line-of-duty disability pension. (Internal quotation marks omitted.) *Id.* at 507.

¶ 50 Here, as in *Wade*, Drs. Mercier and Levin did not base their opinions on all the evidence that was relevant and material to plaintiff's shoulder injury. Neither doctor addressed whether plaintiff's shoulder injury could have resulted from the second of the three episodes on February 24, 2013, or acknowledged that plaintiff had complained of shoulder pain as early as March 4, 2013. The Board, therefore, erred in relying on Drs. Mercier and Levin's opinions in finding that plaintiff had not established that he injured his shoulder in the line of duty. See *id.* (finding that pension board erred in relying on the opinion of a doctor who did not base his opinion on key evidence). Under these circumstances, "our review cannot amount to a rubber stamp of the proceedings below merely because the Board heard witnesses, reviewed records, and made the requisite findings." *Bowlin*, 368 Ill. App. 3d at 211. Consequently, the Board's reliance on Drs. Mercier and Levin's opinions in finding that plaintiff did not establish that his shoulder injury occurred in the line of duty was against the manifest weight of the evidence.

¶ 51

III. Conclusion

¶ 52 For the foregoing reasons, we find that plaintiff is entitled to a line-of-duty disability pension. We, therefore, we affirm the judgment of the circuit court of Cook County reversing the Board's decision to deny plaintiff a line-of-duty pension and grant a non-duty disability pension.

¶ 53 Affirmed.