

RONALD E. FLANAGIN

v.

DEPARTMENT OF INLAND FISHERIES & WILDLIFE

Argued November 14, 2017

Decided May 17, 2018

Panel: SAUFLEY, C.J., and ALEXANDER, MEAD, GORMAN, JABAR, HJELM, and HUMPHREY, JJ.

MEMORANDUM OF DECISION

The Department of Inland Fisheries & Wildlife appeals from a decision of the Appellate Division of the Workers' Compensation Board affirming the Administrative Law Judge's (*Jerome, ALJ*) decision granting Ronald Flanagin's 2011 petition for restoration of partial incapacity benefits for the period between February 15, 2002, and July 13, 2011, and for total incapacity benefits beginning July 13, 2011.

Contrary to the Department's arguments, the Appellate Division did not improperly review a factual finding when it determined that Flanagin had met his burden to toll the ten-year statute of limitations applicable to his 1975 injury during the period in which he received payments on account of his 1979 injury, *see* 39-A M.R.S. § 318 (2017); the equitable defenses of waiver and laches are not authorized in workers' compensation cases, *see Hird v. Bath Iron Works Corp*, 512 A.2d 1035, 1037-38 (Me. 1986); and there was competent evidence in the record supporting the ALJ's finding that 100% of Flanagin's ongoing incapacity results from his 1975 injury, *see Sinclair Builders, Inc. v. Unemployment Ins. Comm'n*, 2013 ME 76, ¶ 9, 73 A.3d 1061. Finally, we defer

to the interpretation of the unanimous panel of the Appellate Division in its assessment of the requirements for putting the Department on notice that the benefits received through 2002 were necessitated, at least in part, by the 1975 injury, and we decline, on the facts of this case, to revisit the legally required aspects of that notice. *See Leighton v. S.D. Warren Co.*, 2005 ME 111, ¶ 17, 883 A.2d 906.

The entry is:

Judgment affirmed.

Robert W. Bower, Jr., Esq. (orally), Norman, Hanson & DeTroy, Portland, for appellant Maine Department of Inland Fisheries & Wildlife

James J. MacAdam, Esq., Nathan A. Jury, Esq. (orally), and Donald M. Murphy, Esq., MacAdam Jury, P.A., Freeport, for appellee Ronald Flanagan