No. 2—10—0279WC

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

JOANNE NEAL, Appellant, v. ILLINOIS WORKERS' COMPENSATION COMMISSION *et al.* (Rockford Health System, Appellees).	)))))))))))	Appeal from the Circuit Court of Winnebago County. No. 09—MR—408 Honorable J. Edward Prochaska, Judge, Presiding.

JUSTICE STEWART delivered the judgment of the court.
Presiding Justices McCullough, and Justices Hoffman, Hudson, and Holdridge concurred in the judgment.

ORDER

Held: The Commission did not abuse its discretion by denying the claimant's motion for a continuance during the arbitration hearing to obtain an independent medical examination. Additionally, the Commission's decision that the claimant failed to prove a causal connection between her injury and her employment is not against the manifest weight of the evidence.

The claimant, Joanne Neal, appeals from a decision of the circuit court of Winnebago County which confirmed a decision of the Illinois Workers' Compensation Commission (the Commission) denying benefits under the Illinois Workers' Compensation Act (Act). 820 ILCS 305/1

et seq. (West 2008). The Commission affirmed the arbitrator's denial of the claimant's motion for a continuance and his dismissal of her claims for failure to prove that she had sustained an accident that arose out of and in the course of her employment with Rockford Health System (the employer). We affirm.

BACKGROUND

(A) The Claimant's Motion for a Continuance

The claimant initially filed an application for adjustment of claim (05 WC 32141) on July 22, 2005, alleging that the date of the accident was May 9, 2003, and that the part of her body affected was her "Upper Extremities-Bilateral." On September 21, 2007, the claimant filed another application for adjustment of claim (07 WC 42411) again alleging the date of the accident as May 9, 2003, and the part of the body affected as "RUE" (right upper extremity). On the date of the arbitration hearing, over objection, she was allowed to amend both applications to allege the date of the accident was March 3, 2005.

More than 30 days prior to the May 2008 arbitration docket, both parties served a notice of motion in both cases asserting that they would appear at the May 13, 2008, status call to request a hearing date. At the May 13, 2008, status call, the attorneys for both parties appeared, and the case was set for arbitration hearing on May 15, 2008, without objection from either party.

At the beginning of the May 15, 2008, arbitration hearing, the arbitrator noted that he had received the "Request for Hearing form containing the stipulations of the parties," which was received into evidence as Arbitrator's Exhibit No. 1. In that exhibit, the parties stipulated that they were "prepared to try this matter to completion on 5-15-08, unless the arbitrator approves other arrangements." The parties also stipulated on that form that medical payments were not disputed and

that the claimant was not entitled to receive any TTD payments. The disputed issues were accident, causal connection, and the nature and extent of the claimant's injury. The arbitrator then allowed the claimant to amend the applications to change the date of accident and admitted the amended applications into evidence as Arbitrator's Exhibits No. 2 and No. 3. Noting that both applications alleged the same accident date, the arbitrator, without objection, dismissed the claim designated as 07 WC 42411, and announced that the hearing would proceed only on 05 WC 32141.

Next, without objection, the claimant's exhibit list was admitted into evidence as Arbitrator's Exhibit No. 4, and both of the claimant's exhibits were admitted. Petitioner's Exhibit No. 1 was the medical records of Dr. Schroeder and Petitioner's Exhibit No. 2 was the medical records of Dr. Bear. After the claimant's exhibits were admitted, again without objection, the employer's exhibit list was admitted as Arbitrator's Exhibit No. 5, and all of the employer's exhibits were admitted into evidence. The employer admitted six exhibits, consisting of the report of Dr. Weiss, the evidence deposition of Dr. Koehler, and records kept by the employer pertaining to the claimant's work performance.

At that point, before receiving any testimony, the following exchange occurred:

"THE ARBITRATOR: Any preliminary matters?

[CLAIMANT'S ATTORNEY]: Your Honor, Petitioner asks that the right to be examined by an examining doctor be granted despite the fact the deposition of Dr. Koehler was taken in this case.

[EMPLOYER'S ATTORNEY]: Respondent objects, Your Honor. Prior to the taking of Dr. Koehler's deposition, we confirmed with Petitioner's counsel at the time that they would not be getting any supplemental reports or have her seen by an examining doctor. And

the deposition of Dr. Koehler went forward. The Respondent would be prejudiced at this time by the creating of a motion to take further independent medical examinations and having experts give opinions in the case.

THE ARBITRATOR: The Arbitrator denies Petitioner's motion noting that the current Commission decisions have indicated that once a deposition of a party has begun, the trial has begun. And hence, it would not be appropriate to have an opinion by someone who - - by someone who hasn't opined by the start of the hearing. Anything further?

[CLAIMANT'S ATTORNEY]: Not for the Petitioner.

[EMPLOYER'S ATTORNEY]: Not for the Respondent."

The claimant's attorney made no further arguments in support of her request and called the claimant to testify. The employer also called one witness and then proofs were closed.

(B) Injury and Causal Connection

The claimant testified that she began working for the employer, a hospital, in 1998. She was still working there in 2008 at the time of the hearing. In 2005, she was cleaning patient rooms after the patients were discharged, a job referred to as "dismissals." Her job duties in 2005 included retrieving 15 to 20 pounds of dirty linens, picking up trash, cleaning the toilet and sink, washing the beds, flipping the mattresses, mopping the floors, and dusting and wiping down everything in the room. She testified that she had to grip her cleaning utensils and cloths in order to do her job. If the patient had been in isolation, she was also required to wash down all the walls and everything else in the room. Her last duty before exiting the room was to mop the floor, which required her to grip a dry towel in order to dry mop the floor, and then she used a bucket filled with cleaning solution in order to wet mop the floor. When she wet mopped, she used a wringer that she had to squeeze

with her hand. Each room took 25 to 40 minutes. She was required to clean 14 to 16 rooms per day when she first began. She started noticing calluses on her hands in approximately 1999, which she attributed to using the mop, gripping the wringer, and using her hands to dust. She stated that doing dismissals was "a very hard job, stressful for your hands, because you do a lot of mopping and cleaning and squeezing." She worked alone cleaning the rooms unless she was training someone.

From 1999 through 2005, she also did various other jobs, including cleaning other rooms, such as public bathrooms, the dialysis unit, or the physical therapy department. She testified that these alternate jobs often required her to lift heavy items with her hands. She was able to keep up with the employer's requirements until she started having problems with her hands. She testified that her hands "started getting dead and tingling," and the pain decreased the amount of work she was able to do each day, but she did not take time off work as a result. She began seeing her family physician, Dr. Paul Schroeder, in May 2003.

On May 10, 2003, Dr. Schroeder wrote that he examined the claimant regarding "right arm pain for the last two weeks with some swelling on her lower forearm and a bruise and pain when she bends her fingers." He noted tingling in her fingers, but "normal equal grip strength," and no obvious muscle loss. He noted "some swelling on the anterior aspect of the distal forearm." He assessed her condition as tendinitis and planned to schedule an EMG. Dr. Schroeder saw her again in October 2003, and on November 18, 2003, he examined her and reviewed her EMG, which showed "early carpal tunnel changes." He found a small cyst on the ulnar aspect of her right anterior wrist. He advised her to wear a wrist brace and a night splint and to begin physical therapy in December. He restricted her from lifting more than 10 pounds for 2 weeks. When the claimant

followed up with Dr. Schroeder on November 21, 2003, to have him fill out her work restriction papers, he noted that he had diagnosed her with "early right carpal tunnel syndrome."

The claimant saw Dr. Schroeder again on December 8, 2003, and she continued to complain of right wrist and hand pain. She was wearing a wrist brace and taking Naprosyn. He noted that she was feeling better and that she wanted to return to regular duty work. She saw Dr. Schroeder three times in March 2004, but did not complain of right wrist pain, and he did not treat her for carpal tunnel syndrome or any other wrist or hand problem. She called Dr. Schroeder's office on April 30, 2004, and requested pain medication because her right arm was "hurting badly." Dr. Schroeder saw the claimant at his office on May 11, 2004, at which time she complained of carpal tunnel syndrome in her right hand. She had not been wearing her wrist brace. He referred her to Dr. Brian Bear for an orthopedic consultation. None of the medical records of Dr. Schroeder introduced into evidence contained any opinion that the claimant's medical condition was causally related to her work activities.

On October 28, 2004, the claimant met with Dr. Bear. She told Dr. Bear that her right hand had been numb and tingling for the previous year and that these symptoms occurred "at night when sleeping, when talking on the phone, driving a car, and reading a magazine." She told him that wearing splints helped. She had not done any physical therapy at that time. She told him that her work aggravated her problems. Dr. Bear's examination revealed "full digital flexion and extension," good capillary refill in her hand, and no evidence of flexor or extensor tenosynovitis. His review of the EMG of her hand showed "mild carpal tunnel syndrome of the right hand affecting sensory fibers only." He recommended she wear a splint, take anti-inflammatory medicine, and engage in physical therapy. She requested an injection, which he felt was reasonable. He allowed her to return to work

with only one restriction, that she wear a wrist splint while at work. Dr. Bear gave her the injection on October 28, 2004, and afterwards, she felt nauseated, so he wrote her a note to allow her to take off work that afternoon.

When the claimant saw Dr. Bear on January 25, 2005, her right hand symptoms had "markedly improved" since receiving the injection in October 2004. She complained of swelling and stiffness that was worse in the morning and better by the afternoon. Dr. Bear noted that the claimant was "able to perform her job at Rockford Memorial Hospital as an environmental technician." He assessed an "insidious onset of swelling of the MCP joints with what appears to be a boggy synovitis." He recommended an "inflammatory arthritis panel" and prescribed Relafen. Dr. Bear met with the claimant on March 3, 2005, because her right hand paresthesias had returned. He noted that she had "numbness and tingling in her thumb, index and long finger as well as achy pain in the wrist." She requested surgery but wanted to wait until June. He diagnosed her with right hand carpal tunnel syndrome with severe symptoms that were affecting the quality of her life and her ability to perform daily activities. Dr. Bear scheduled her for a "mini open carpal tunnel release," and, until it could be performed, he restricted her from lifting more than 20 pounds at work but noted that she would be able to work with that restriction and had been doing so "without difficulty." The medical records of Dr. Bear contained no opinion on whether the claimant's medical condition was causally related to her work activities.

The claimant testified that she did not have that surgery because the employer denied her worker's compensation claim. She had continued to work for the employer through the arbitration hearing even though she still experienced tingling when she tried to sleep. She testified that she had

begun having problems with her left hand since she had been using it more to avoid the pain in her right hand.

On April 13, 2005, Dr. Stephen F. Weiss, an orthopedic surgeon, conducted an IME on the claimant for the employer. In his report, Dr. Weiss noted that the claimant was right-handed and worked for the employer doing primarily housekeeping work, such as making beds, cleaning, dusting, and mopping. The claimant reported that her symptoms of right forearm pain and swelling began in May 2003 and that she had undergone an EMG, which showed early carpal tunnel syndrome. She told him that she had numbness, tingling, and pain in her thumb, index finger, and middle finger of her right hand, all of which became worse at night. She reported that her right hand was weak and that she could not use it for gripping. By the end of January 2005, she began to develop similar symptoms in her left hand. At the time of his examination, the claimant was still working with a 20 pound weight-lifting restriction.

Dr. Weiss reported that Dr. Schroeder had treated the claimant conservatively and that her symptoms had "fluctuated in severity." Dr. Weiss noted that Dr. Bear had diagnosed her with right carpal tunnel syndrome and had recommended surgery. Dr. Weiss diagnosed the claimant with right carpal tunnel syndrome and "probable multiple peripheral neuropathies including left carpal tunnel syndrome and bilateral cubital tunnel syndrome." He opined that her work activities did not contribute to either the carpal tunnel syndrome or the cubital tunnel syndrome. He based his opinion on studies that work activities do not usually cause carpal tunnel syndrome unless they involve "vigorous vibration as in the use of chain saws or jack hammers." He did not believe her work activities aggravated a pre-existing condition because her duties did not involve "highly repetitive" or "highly forceful gripping," with "gripping cycles of about one per minute and force of 20-30

pounds." He did not believe that the claimant's work was repetitive or forceful enough to cause carpal tunnel syndrome. His opinion that her work activities did not cause her condition was reinforced by his finding that she did most of her work right-handed but had started developing left side carpal tunnel syndrome. He noted that the claimant should undergo the surgery recommended by Dr. Bear regardless of causation.

On August 4, 2004, the claimant met with Dr. Koehler, an occupational medicine specialist working for Physicians Immediate Care, for an IME at the request of the employer. In his report, Dr. Koehler noted that the claimant had been experiencing progressively worse pain and numbness in her right wrist for at least a year. In the discussion section of his report, he stated as follows:

> "I inquired as to the type of things she does in her work. She is right-handed, and uses her right hand to scrub down beds, mop floors and clean rooms. She describes the gripping of sponges and cleaning cloths to rub down beds bothers her the most. This appears to involve power gripping. She states she cleans about 26 rooms per day. She has no symptoms in her left hand. She has no medical conditions that predispose to this.
>
> Therefore, it is my conclusion that it is reasonable to apply the Carpal Tunnel Syndrome condition to workers' compensation."

On October 19, 2005, Dr. Koehler submitted a second report to the employer. In this report, he stated that he had received "new information" about the claimant's job duties which had caused him to change his opinion regarding the cause of her carpal tunnel syndrome. He noted that, when he initially examined the claimant, based on what she told him, he had recorded that she cleaned 26 rooms per day, but based on the new information from the employer, he now had a "very different picture." He stated that he felt her job did "not require the repetition nor the intensity of wrist/hand

activity associated with a workplace risk for carpal tunnel syndrome." Based on the new information, he opined that her carpal tunnel syndrome was not related to her work duties.

In a deposition taken on March 23, 2007, Dr. Koehler testified that, after he met with the claimant and issued his August 2004 report, the employer sent him additional information that the claimant was not cleaning 26 rooms per day, but that she was cleaning between 6 and 10 rooms per day. Based on that information, he changed his opinion and concluded that her condition was not caused by her employment "because cleaning six *** to ten rooms a day is insufficient to cause carpal tunnel syndrome," which was more likely caused by "normal daily activities." He determined that Dr. Weiss's findings of inflamed nerves and joints indicated that the claimant had an inflammatory disease. He opined that her work duties were not a causative factor to her carpal tunnel syndrome or her inflammatory disease.

Julie Thomas testified that she was the employer's environmental services manager, and in that capacity, she worked with the claimant's supervisor. Thomas testified that the claimant's job required her to perform 12-14 dismissals per day. She explained that a dismissal occurs when a patient is discharged, leaving his or her bed and that portion of the room ready for cleaning. Thomas testified that the claimant never met her requirement of 12-14 dismissals per day. She stated that she had never had an employee that had performed 26 dismissals in one day. The claimant was not required to use any vibrating tools or vacuums in performing dismissals.

(C) Decisions of the Arbitrator, Commission, and Circuit Court

After the arbitration hearing, the arbitrator issued his written decision finding that the claimant had failed to prove that she sustained an accident that arose out of and in the course of her employment and that she had failed to prove that her condition of ill-being was causally related to

her employment. The arbitrator made detailed findings about the medical evidence. Based on the medical evidence, the arbitrator concluded that there was "no evidence of any specific injury or accident at work" and no evidence to show that the cumulative effect of repetitive trauma at work caused her condition of ill-being. He noted that "neither of the petitioner's treating physicians, Dr. Schroeder or Dr. Bear, opined that petitioner's condition of ill-being arose out of and in the course of her employment." Further, the arbitrator found that both Dr.Koehler and Dr. Weiss found no causal relationship between her condition of ill-being and her work duties. He dismissed both of the claimant's cases. In his written order, the arbitrator did not comment on the claimant's request for an examination or for a continuance.

On appeal, the Commission unanimously affirmed the arbitrator's decision. Regarding the claimant's motion at the beginning of the arbitration hearing, the Commission noted that she had requested a continuance for the purpose of obtaining an IME and that the employer had objected because, before Dr. Koehler's March 23, 2007, deposition, the claimant's attorney had represented that he did not intend to have the claimant examined again. The Commission found that the arbitrator had denied the request for a continuance based on the Commission's decision in *Marks v. ACME Industries*, 02 I.I.C. 0892, 94 IL W.C. 01119, 2002 WL 31890986 (Ill. Indus. Comm'n) (November 22, 2002) (ruling that the hearing date set forth in section 12 of the Act referred to the evidence deposition of the claimant's treating physician and that the examining physician's report tendered after that deposition was properly excluded). The Commission noted that its *Marks* decision was "no longer valid precedent" in that its holding had been rejected in *City of Chicago v. Illinois Worker's Compensation Comm'n*, 387 Ill. App. 3d 276, 899 N.E.2d 1247 (2008). The Commission rejected the claimant's argument that her motion for continuance should have been

granted under *City of Chicago*, finding the facts of that case distinguishable from the facts in the claimant's case. The Commission determined that the claimant had not asked for a continuance in order to obtain an IME until the day of trial even though her attorney "had adequate time" to obtain the IME before the trial. Finding that the claimant had failed to demonstrate good cause for a continuance, the Commission affirmed the arbitrator's denial of her request for a continuance. The Commission further found that "the underlying evidence concerning Petitioner's work duties is insufficient to support a finding of liability."

On appeal, the circuit court confirmed the Commission's decision affirming the arbitrator, including its denial of the claimant's motion for a continuance. This appeal followed.

ANALYSIS

(1) Claimant's Motion for Continuance

The claimant contends that the denial of her request for a continuance at the arbitration hearing was erroneous and contrary to Illinois law. She maintains that this issue involves only the interpretation of the Act and Commission rules, and consequently, her argument presents a question of law that is to be reviewed *de novo*. See *King v. Industrial Comm'n*, 189 Ill. 2d 167, 171, 724 N.E.2d 896, 898 (2000) (statutory interpretation is a question of law to be reviewed *de novo*). The employer argues that there is no statutory interpretation in the resolution of this issue and that the abuse of discretion standard applies. We agree that the grant or denial of a motion for continuance in a worker's compensation proceeding is a matter within the Commission's discretion, a decision we will not overturn absent an abuse of that discretion. *Edward Don Co. v. Industrial Comm'n*, 344 Ill. App. 3d 643, 650, 801 N.E.2d 18, 24 (2003). However, to the extent that deciding this issue calls

for an interpretation of the Act or the Commission's rules, we conduct that inquiry *de novo*. *King*, 189 Ill. 2d at 171, 724 N.E.2d at 898.

Initially, we consider whether the Commission abused its discretion in deciding that the claimant failed to show good cause for a continuance after the arbitration hearing had commenced. Both parties filed written requests for a hearing date prior to the May 2008 arbitration docket. At the status call on May 13, 2008, the claims were set for trial on May 15, 2008, and the parties indicated their agreement to that trial date in the request for hearing form admitted into evidence as Arbitrator's Exhibit No. 1. Under §7030.20(a) of the Commission's rules, written requests for trial dates may be made at the monthly status call. 50 Ill. Adm. Code §7030.20(a) (2008). §7030.20(b) specifically provides that: "If the parties by agreement request a trial date, the arbitrator will assign a specific time and date for trial." 50 Ill. Adm. Code §7030.20(b) (2008).

Rule 7030.20 also governs the standard upon which a continuance may be granted, and the manner in which the parties may request a continuance on the day of the arbitration hearing:

> "(f) On each trial day the Arbitrator shall begin hearing cases at 9:30 a.m.. Any party who requests a date certain for trial must be prepared, *absent good cause shown*, to proceed to trial. On the trial day parties may report the case settled or request a continuance on a form provided by the *** Commission. ***
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> (g) Bifurcated hearings are discouraged and will be allowed only for good cause. Examples of good cause include, but are not limited to, where the number or location of witnesses makes it impossible to conclude the hearing in one day or the testimony of a witness must be taken prior to a deposition. All cases, except those which are heard under Section 19(b-1) of the Act, must be concluded within 3 months after the first hearing date

or the Arbitrator will close proofs, absent good cause shown, and render a decision." (Emphasis added.) 50 Ill. Adm. Code §7030.20(f), (g) (2008).

In the case at bar, the parties agreed that the arbitration hearing would proceed on May 15, 2008. In fact, the claims did proceed to hearing and all of the exhibits were admitted into evidence, without objection. It was only after all documentary evidence had been admitted, but before any testimony, that the claimant's attorney made an oral request for "the right to be examined by an examining doctor." The claimant did not specifically ask for a continuance, although in the ensuing proceedings, she has characterized her request as one for a continuance. She did not file a written request for a continuance. The critical issue, however, is whether the claimant showed good cause in support of her oral request for a continuance after the arbitration hearing had commenced. She did not explain any reason for her request, did not name the physician to examine her, did not provide any time frame in which these events were to occur, and did not state why she had not obtained the IME earlier. When the employer objected to her request, she did not attempt to clarify. When the arbitrator denied her request, she did not make any further arguments or offer any explanation of why she made the request but simply proceeded to present her evidence to the arbitrator. Under these circumstances, where the claimant failed to offer any explanation in support of her request, the Commission did not abuse its discretion in finding that she did not show good cause for continuing the arbitration hearing.

The claimant argues that she was not required to show good cause for her request for a continuance because the case was not yet three years old. In support of her argument she cites §7020.60 of the Commission rules, which provides as follows:

"(a) Continuances on Arbitration; Notices

Written notices will be sent to the parties for the initial status call setting on arbitration only. Thereafter, cases will be continued for 3 month intervals, or at other intervals upon notice by the Commission, until the case has been on file at the *** Commission for 3 years, has been set for trial pursuant to Section 7030.20, or otherwise disposed of. ***

(b) Monthly Status Calls

* * *

(2) The monthly status call shall be conducted by the Arbitrator as follows:

(A) Cases shall be called in the order that they appear on the monthly status call.

(B) Cases will be continued in accordance with subsection (a) above unless a request for trial date is made in accordance with Section 7030.20. ***" 50 Ill. Adm. Code §7020.60 (2008).

§7020.60 also provides the method by which cases that have been on file three or more years are to be scheduled, under which the case will automatically be set for trial "unless a written request has been made to continue the case for good cause." 50 Ill. Adm. Code §7020.60(b)(2)(C) (2008).

The claimant argues that her case was not yet three years old when she requested the continuance, and therefore, she did not have to show good cause for the request. The claimant asserts that §7020.60 required that the hearing be continued since the claims were less than three years old. In her brief, the claimant argues that there was "no agreement" to set the case for trial and that the arbitrator could not "force" her to trial. On the contrary, the record clearly reflects that the parties agreed to proceed to trial, in fact did proceed to trial and both parties introduced all of their documentary evidence before any continuance was requested. This case was properly scheduled for arbitration hearing, at the request of both parties, and pursuant to §7030.20. The age of the case has

no bearing on this issue since the parties filed a request for hearing form pursuant to §7030.20, announcing ready for trial, which in turn required them to go forward with the hearing "*absent good cause shown*." (Emphasis added.) 50 Ill. Adm. Code §7030.20(f) (2008).

In the alternative, the claimant argues that she had "good cause for not obtaining an examination prior to the trial" because she was relying on her belief that the Commission's unpublished decision in *Marks* was binding law, but that decision was overturned by the *City of Chicago* case after the arbitration hearing. She maintains that the facts of her request for a continuance are similar to the facts in *City of Chicago* and that the holding of that case requires reversal of the Commission's denial of her motion to continue the arbitration hearing. As the employer points out, the facts of the instant case are distinguishable from *City of Chicago*, and that case does not require a finding that the Commission abused its discretion by affirming the arbitrator's denial of the motion to continue.

In *City of Chicago*, the court considered whether the Commission had erred in excluding an IME report submitted by the employer for use in the arbitration hearing. *City of Chicago*, 387 Ill. App. 3d at 277-78, 899 N.E.2d at 1248. There, the arbitrator excluded the report because it had not been disclosed to the claimant before the treating physician's deposition, which the arbitrator held to be the commencement of the arbitration hearing under section 12 of the Act and the Commission's decision in *Marks*. Section 12 of the Act provides that copies of reports from examining physicians must be supplied to the adverse party no later than 48 hours "before the time the case is set for hearing." 820 ILCS 305/12 (West 2008). In *Marks*, the Commission found that the "hearing" referred to in section 12 was the deposition of a treating physician, which had been conducted before the beginning of the arbitration hearing.

In *City of Chicago*, however, the court overruled the holding in *Marks* that the arbitration hearing began with a physician deposition. *City of Chicago*, 387 Ill. App. 3d at 280, 899 N.E.2d at 1250. In that case, the report the employer sought to admit into evidence was already prepared and submitted to the claimant more than 48 hours before the arbitration hearing. *City of Chicago*, 387 Ill. App. 3d at 279-80, 899 N.E.2d at 1249-50. In the case at bar, the IME had not yet occurred, and, obviously, no IME report had been provided to the employer at any time before the arbitration hearing. Hence, the facts in our case are not similar to the facts in *City of Chicago,* and the ruling in that case is not relevant to our inquiry.

If the claimant desired an IME, she could have filed a motion setting forth the reasons for the request, before the case was set for arbitration hearing, and allowed the arbitrator to hear arguments and determine the issue. Instead, she requested a hearing date, agreed to proceed to hearing, allowed all documentary evidence to be admitted, and only then made a vague request for an IME in the middle of the hearing. The claimant's argument, that she relied on the *Marks* decision, mistakenly believing that she could not offer any additional medical reports into evidence after the taking of Dr. Koehler's deposition, misses the point. The glaring problem with this argument is that the claimant was required to *show* the arbitrator that she had good cause for the continuance. However, she did not refer to the *Marks* decision and offered no explanation in support of her request. Despite what she believed about the Commission's rulings, she did not make any explanation to the arbitrator concerning that belief or offer any other reason in support of her request. Not only did the claimant fail to make this argument during the arbitration hearing, she did not explain why she did not obtain an IME *before* Dr. Koehler's deposition. Dr. Koehler opined that her injury was not causally related to her employment on October 19, 2005, but was not deposed until March 23, 2007, a span of more

than a year and five months. Without any argument to show why the IME was necessary and why she had not accomplished it earlier, the claimant did not show good cause for the continuance, and the Commission did not abuse its discretion in so finding.

(2) Causal Relationship

The claimant argues that the Commission's finding that her injury was not causally related to her employment is against the manifest weight of the evidence. It is clear, however, that the claimant offered no medical opinion that the claimant's medical condition was causally related to her work activities. Apparently, the claimant now argues that the Commission should have relied on Dr. Koehler's first report, used as an exhibit in his deposition, in which he found a causal connection between her injury and her work. The claimant maintains that Dr. Koehler's subsequent change of opinion was based upon faulty information and is not reliable.

It was the claimant's burden to prove all the elements of her claim, including causation, by the preponderance of the credible evidence. *Ghere v. Industrial Comm'n*, 278 Ill. App. 3d 840, 847, 663 N.E.2d 1046, 1051 (1996). To establish causation under the Act, the claimant must prove only that some act or phase of his or her employment was a causative factor in the ensuing injury. *Land and Lakes Co. v. Industrial Comm'n*, 359 Ill. App. 3d 582, 592, 834 N.E.2d 583, 592 (2005). An accidental injury need not be the sole or principal causative factor so long as it was *a* causative factor in the resulting condition of ill-being. *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 205, 797 N.E.2d 665, 673 (2003). It is the function of the Commission to decide questions of causation, to judge the credibility of witnesses, and to resolve conflicting evidence. *Berry v. Industrial Comm'n*, 99 Ill. 2d 401, 406, 459 N.E.2d 963, 966 (1984). A court of review may not substitute its judgment for that of the Commission merely because other inferences could be drawn from the evidence.

Berry, 99 Ill. 2d at 406-07, 459 N.E.2d at 966. Findings of the Commission will not be overturned unless they are against the manifest weight of the evidence, *i.e.*, unless the record discloses that an opposite conclusion clearly was the proper result. *Gallianetti v. Industrial Comm'n*, 315 Ill. App. 3d 721, 729-30, 734 N.E.2d 482, 489 (2000). When the evidence is sufficient to support the Commission's causation finding, we must affirm. *Benson v. Industrial Comm'n*, 91 Ill. 2d 445, 450, 440 N.E.2d 90, 93 (1982).

Applying these rules, we cannot conclude that the Commission's causation finding was against the manifest weight of the evidence. The overwhelming weight of the evidence establishes that the claimant's condition of ill-being was not causally related to her work. Neither of the claimant's treating physicians expressed the opinion that her medical condition was work-related. The employer introduced the opinions of two physicians that her medical condition was not work-related. Although Dr. Koehler originally found causation, he changed his opinion after receiving new evidence from the employer which detailed the claimant's work activities. The claimant argues that the evidence the employer provided Dr. Koehler was not reliable and is an insufficient basis in support of his changed opinion. However, it was the Commission's responsibility to resolve questions of fact, to assign weight to the testimony and evidence, and to draw reasonable inferences from the evidence. *Ghere*, 278 Ill. App. 3d at 847, 663 N.E.2d at 1051. The claimant thoroughly cross-examined Dr. Koehler concerning his reliance on the evidence that the claimant did not perform 26 dismissals per day as he had originally believed when he found a causal connection. Dr. Koehler explained that he changed his opinion because the repetitive nature of cleaning 26 rooms per day could cause carpal tunnel syndrome but cleaning only 6 to 10 rooms per day could not. There was ample evidence in the record to support the decision of the Commission. The

Commission's finding that the claimant failed to prove causation is not against the manifest weight of the evidence.

CONCLUSION

We affirm the decision of the circuit court confirming the decision of the Commission.

Affirmed.