

NOTICE

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2017 IL App (4th) 160891-U

NO. 4-16-0891

FILED
August 11, 2017
Carla Bender
4th District Appellate
Court, IL

IN THE APPELLATE COURT
OF ILLINOIS
FOURTH DISTRICT

MARK MARINELLI,)	Appeal from
Plaintiff-Appellant,)	Circuit Court of
v.)	Sangamon County
THE CITY OF SPRINGFIELD POLICE PENSION)	No. 16MR14
FUND BOARD OF TRUSTEES,)	
Defendant-Appellee.)	Honorable
)	Esteban F. Sanchez,
)	Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.
Justices Holder White and Appleton concurred in the judgment.

ORDER

¶ 1 *Held:* Defendant's denial of plaintiff's application for a line-of-duty pension was not against the manifest weight of the evidence.

¶ 2 Plaintiff, Mark Marinelli, applied to defendant, the City of Springfield Police Pension Fund Board of Trustees (Board), for a disability pension pursuant to the Illinois Pension Code (40 ILCS 5/3-101 to 3-152 (West 2012)). Following a hearing, the Board granted plaintiff a non-duty disability pension but denied his request for a line-of-duty disability pension. Plaintiff sought judicial review of the Board's decision by filing a complaint for administrative review with the circuit court. Ultimately, the court determined the Board's decision was not against the manifest weight of the evidence and denied plaintiff's complaint. Plaintiff appeals, arguing the Board erred in denying his application for a line-of-duty disability pension because (1) his work

as a police officer, specifically extensive report writing, was a causative factor of his disabling condition; and (2) he was injured as the result of work duties that involved unique and “special risks” to police officers. We affirm.

¶ 3

I. BACKGROUND

¶ 4

Beginning in March 2006, plaintiff worked as a police officer for the City of Springfield. He performed full-duty police work until April 2013, when he asserted he began to experience symptoms of tightness and numbness in both of his hands. Plaintiff thereafter worked in light-duty positions until September 2014, when he was placed on inactive status. In March 2014, plaintiff applied for both duty- and non-duty-related disability pension benefits with the Board. He alleged he experienced tightness in both of his hands and numbness in all of his fingertips, and that he had been diagnosed with bilateral thoracic outlet syndrome (TOS).

¶ 5

In October 2015, the Board conducted a hearing on plaintiff’s application for benefits. Plaintiff testified he worked as a patrolman for the Springfield police department. He stated he performed traffic-related duties, went “to people’s houses,” and wrote reports for burglaries and auto accidents. Plaintiff recalled two specific incidents when he was required to subdue and apprehend a suspect. Also, he testified that, although he never had to discharge his firearm, there were “[s]everal” occasions when he had to draw his weapon in the course of his duties. Each year, he also had to “qualify” with his firearm. During cross-examination, plaintiff additionally testified that he drew his firearm “numerous” times while working as a police officer. However, he did not recall whether he had to draw his gun in 2012.

¶ 6

With respect to report writing, plaintiff testified he handwrote his reports while sitting in his squad car. He stated he wrote one-page traffic tickets and crash reports and incident

reports that were approximately two to three pages in length. Plaintiff agreed that during the 16-month period from January 1, 2012, through April 24, 2013, he wrote 45 traffic tickets, 15 crash reports, and 93 incident reports.

¶ 7 Plaintiff asserted, on April 28, 2013, he noticed tightness and numbness in his hands while off duty and “driving back from [his] in-law[']s” home. He denied previously experiencing problems “like that,” but he noted there were occasions when his hands would “cramp up” while he was writing reports. Plaintiff did not recall when he first experienced cramping in his hands. He testified there were “just a few times that [his] hands cramped up,” and the cramping occurred when he would write an “extended report.” Plaintiff described an “extended report” as one that was “over three or four pages.”

¶ 8 After experiencing problems on April 28, 2013, plaintiff “called in to work sick.” According to plaintiff, he reported that he “didn’t know what was going on with [his] hands.” He asked the person he spoke with on the phone to “put [him] down as [being sick] with the flu *** or something like that” because he also felt lightheaded and dizzy.

¶ 9 Plaintiff testified, the following day, April 29, 2013, he sought treatment at Memorial Express Care (Memorial). He stated Memorial “didn’t know what was going on with [his] hands,” but he was diagnosed with an inner-ear infection, explaining his feeling of dizziness. Records from Memorial were submitted at the hearing and showed plaintiff first sought medical care on April 30, 2013. He complained of being nauseated for three days, being uncharacteristically emotional, and feeling like he was drunk. Plaintiff was described as being unable to “give a clear discription [*sic*] of what his main [complaint was].” A “Supplemental Charting” note stated plaintiff also reported “tingling in [his] hands.” Ultimately, plaintiff was diagnosed with fatigue

and eustachian tube dysfunction, and he was advised to follow-up with his primary care doctor, Dr. Mark Hanson. Plaintiff testified, the next day, he saw Dr. Hanson's physician's assistant, who thought he had a pinched nerve and referred him to a chiropractor.

¶ 10 Chiropractic records show plaintiff's first chiropractic visit occurred on May 1, 2013, and state he had been referred "for constant sharp achy pain in his left hand and numbness and tingling in both x 6 days." Plaintiff's chiropractor identified her working diagnosis as "cervical radiculopathy" but stated there was a possibility that plaintiff was having a reaction to over-the-counter allergy medication. Plaintiff testified the chiropractic treatment he received did not result in any improvement in his condition.

¶ 11 On May 10, 2013, plaintiff sought treatment from Dr. Koteswara Narla, complaining of numbness in both hands for "about 10 days duration." Dr. Narla's records show he suspected plaintiff had bilateral carpal tunnel syndrome. On June 18, 2013, Dr. Narla noted plaintiff had undergone an electromyography (EMG) and nerve conduction studies, which showed "only a very mild carpal tunnel syndrome on the right and no carpal tunnel syndrome on the left." He stated plaintiff also had a cervical magnetic resonance imaging (MRI) scan that showed "very minimal disc bulging." However, Dr. Narla did not believe either the mild carpal tunnel or disc bulging were causing plaintiff's symptoms. He referred plaintiff to Dr. Christopher Wottowa, a hand surgeon.

¶ 12 On June 20, 2013, plaintiff saw Dr. Wottowa and complained of bilateral hand tightness and numbness since April 28, 2013. Dr. Wottowa's impression was that plaintiff had "early carpal tunnel syndrome." On July 10, 2013, he recommended a right carpal tunnel release. On July 30, 2013, plaintiff underwent the recommended carpal tunnel surgery; however, he did

not experience any relief from his symptoms.

¶ 13 Ultimately, Dr. Wottowa referred plaintiff to Dr. Susan Mackinnon, a nerve specialist, whom plaintiff saw on November 4, 2013. Dr. Mackinnon's medical records state plaintiff developed a sudden onset of numbness and tightness in his hands while "driving back from his mother-in-law's house." She noted plaintiff did "a lot of patrol car work and [wore] a 30-pound vest." Dr. Mackinnon diagnosed plaintiff with muscle imbalance and TOS. She recommended conservative management and that plaintiff engage in a weight-loss program.

¶ 14 Before the Board, plaintiff submitted an exhibit containing computer printouts addressing TOS from websites for the Mayo Clinic, the Society for Vascular Surgery, and the National Institute of Neurological Disorders and Stroke. The printouts generally defined TOS as occurring when nerves, veins, or arteries become compressed in the area of the collarbone. Further, they described causes of TOS as physical trauma, repetitive arm and shoulder activities, anatomical defects such as having an extra rib, tumors pressing on nerves, poor posture, and pregnancy.

¶ 15 Plaintiff testified, after being evaluated by Dr. Mackinnon, he returned to see Dr. Wottowa because he did not believe Dr. Mackinnon's diagnosis. On December 16, 2013, Dr. Wottowa referred plaintiff to Dr. Robert Thompson for a second opinion. The record identifies Dr. Thompson as a vascular surgeon and director of the Thoracic Outlet Syndrome Center at Barnes Jewish Hospital.

¶ 16 On January 22, 2014, plaintiff began seeing Dr. Thompson. Dr. Thompson's records show plaintiff reported a "spontaneous onset of pain, numbness, and tingling in the hands" in April 2013 that "occurred at a time that [plaintiff] was shooting" and persisted thereafter. Dr.

Thompson noted that plaintiff's work involved "lengthy periods of time writing reports in a car where he is crouched over a writing pad or a keyboard," and he worked with firearms on a regular basis. He found plaintiff's symptoms on examination compatible with a diagnosis of bilateral neurogenic TOS. With respect to the cause of plaintiff's condition, Dr. Thompson opined as follows: "It is most likely [plaintiff's] symptoms and his condition of [TOS] are the result of repetitive strain activity as a result of work[-]related functions particularly for long periods of time writing in an awkward position or use of the keyboard as well as use of fire[.]arms on a regular basis." Dr. Thompson recommended plaintiff undergo a scalene muscle and pectoralis minor muscle block and physical therapy.

¶ 17 On March 13, 2014, plaintiff followed up with Dr. Thompson, who noted plaintiff was scheduled to undergo bilateral pectoralis minor tenotomy surgery. He also stated plaintiff's TOS was "the result of a work injury that [was] the result of many years of long distance driving, sitting in a car, and long periods of typing and writing." On April 1, 2014, Dr. Thompson performed surgery on plaintiff.

¶ 18 On March 26, 2014, Dr. William Warren, an orthopedic surgeon, saw plaintiff for an independent medical evaluation. Dr. Warren's report stated plaintiff provided a history of "driving a minivan and develop[ing] progressive numbness in both hands on April 28, 2013." Dr. Warren noted plaintiff also experienced dizziness, which was later attributed to an inner-ear infection. He found plaintiff had "poor posture with both shoulders slouched forward." Dr. Warren stated he agreed with plaintiff's TOS diagnosis and predicted plaintiff would "need bilateral first rib resections." With respect to causation, Dr. Warren opined as follows:

"I believe that the activities [plaintiff] was asked to perform in the line of

his employment aggravated a pre-existing condition which predisposed him to develop [TOS]. These activities include using the computer in the squad car, and writing up his reports on the steering wheel. It is my belief that he was predisposed to develop [TOS] as a result of his body habitus, upper body strength and overall build. This would explain why he would develop this condition, while many of his fellow officers would not.”

¶ 19 On October 31, 2014, plaintiff was examined by Dr. M.L. Mehra, a neurologist. He complained of painful hands with cramping, achiness, and numbness in his fingers. Plaintiff reported that his symptoms began in 2013. Dr. Mehra’s impression was status post right carpal tunnel syndrome and TOS. He further stated as follows:

“In my opinion, the present symptoms are a result of [plaintiff] performing his day-to-day duties as a policeman. For example, he says grabbing people and repetitive hand movements. His job as a policeman involves a lot of arm and hand motor activity which will explain the symptoms. In his present condition[,] he is not able to perform as a police officer as described ***, although he can do a desk job.”

¶ 20 On November 3, 2014, Dr. Joshua Warach, a neurologist, performed an independent medical evaluation on plaintiff. According to Dr. Warach’s report, plaintiff provided a history of feeling “weird” for several days prior to April 28, 2013, and possibly having “had an inner ear infection.” Plaintiff further reported that while driving his personal vehicle on April 28, 2013, he experienced a “sudden onset of numbness and tightness” in both hands. Following a review of plaintiff’s medical records and an examination, Dr. Warach’s impression was that plaintiff suf-

ferred from bilateral carpal tunnel syndrome and bilateral TOS. Further, he opined as follows: “[Plaintiff’s] work doing extensive writing and use of the computer may certainly predispose to carpal tunnel syndrome and possibly [TOS] though most likely his body habitus predisposed to [TOS].” Dr. Warach determined plaintiff’s dropping of objects and persistent pain and numbness in his hands prevented him from performing full-duty police work. He opined plaintiff’s condition required him to retire from police service.

¶ 21 On December 16, 2014, Dr. Timothy VanFleet performed an independent medical examination of plaintiff. Dr. VanFleet’s report noted plaintiff was a police officer and that, in April 2013, plaintiff “developed bilateral hand numbness while in a squad car, to the point where he had to shake his hands.” He stated plaintiff continued to complain of bilateral hand numbness and agreed with plaintiff’s TOS diagnosis. In addressing whether plaintiff’s TOS was caused by his employment, Dr. VanFleet, noting that he was not an expert in the condition, stated as follows:

“There is no history of trauma other than the fact that [plaintiff] reports that these symptoms have come about while under [sic] the course of employment of the Springfield Police Department. It would appear that [plaintiff’s TOS] may be as a result of the first rib causing compression on the neurovascular structures that, perhaps, is leading to his current symptomatology.”

Dr. VanFleet stated he could not identify any specific job duties that resulted in plaintiff’s TOS. Further, he recommended plaintiff obtain a functional capacity evaluation (FCE) to determine whether he could perform his job duties and that plaintiff follow up with the physicians who recommended he undergo rib resection surgery.

¶ 22 In April 2015, Dr. VanFleet authored a second report regarding plaintiff. He noted plaintiff underwent an FCE in February 2015, showing plaintiff had difficulty with lifting and “cramping of his hands.” After reviewing plaintiff’s FCE and a description of plaintiff’s job duties, Dr. VanFleet found it “difficult to say” whether plaintiff could return to his work as a police officer. In particular, Dr. VanFleet stated he was not “an expert in weaponry” and lacked sufficient expertise to determine whether plaintiff was capable of shooting a weapon. Further, he stated he was unfamiliar with how often a police officer was required to unholster or discharge his weapon. Aside from these duties, Dr. VanFleet stated it otherwise appeared that plaintiff could perform the duties of a patrol officer.

¶ 23 On May 3, 2015, plaintiff saw Dr. James DeBord for an independent medical evaluation. Dr. DeBord’s report stated plaintiff provided a history of experiencing numbness in both of his hands since April 2013. Dr. DeBord assessed plaintiff as having “Neurogenic TOS with [a] component of [v]enous obstruction.” He opined plaintiff’s condition became symptomatic as a result of job-related physical stressors, “such as repeatitive [*sic*] typing of reports, sometimes in awkward positions such as in a patrol car using the car computer, the sudden motions and strains of physically apprehending a criminal suspect, and multiple sessions shooting firearms.”

¶ 24 At the hearing on plaintiff’s application for benefits, the Board submitted an exhibit containing the number of outgoing text messages sent from plaintiff’s phone from January 2012 through February 2015. The Board’s exhibit showed that, in 2012, plaintiff sent between 244 and 396 texts each month and, in 2013, he sent between 275 and 502 texts each month. Finally, in 2014, plaintiff sent 429 texts in January, 387 texts in February, 376 texts in March, 427

texts in April, 437 texts in May, 543 texts in June, 502 texts in July, 721 texts in August, 542 texts in September, 628 texts in October, 476 texts in November, and 429 texts in December.

¶ 25 On July 28, 2015, the Board's attorney sent letters to Dr. Mehra and Dr. DeBord, asking them to consider whether plaintiff's texting activities caused his symptoms. The letters also asked them to consider "certain other factors" regarding plaintiff's work activities, including that, in 2011, plaintiff "wrote 137 narrative case reports and completed 100 traffic ticket and crash forms" and, in 2012, plaintiff "completed 93 incident reports and 60 traffic ticket and crash report forms." On August 13, 2015, Dr. DeBord responded, stating he was familiar with the physical demands of texting and, although "no volume information was supplied" to him, he found it difficult to believe texting would result in TOS. On September 29, 2015, Dr. Mehra responded, stating he did not believe plaintiff's injuries could be caused or aggravated by plaintiff's text message activity. Rather, he believed plaintiff's symptoms were "a result of his performing of his day-to-day duties as a policeman."

¶ 26 Finally, on cross-examination, plaintiff testified that writing in a vehicle caused his symptoms. He stated he reported to his doctors that he wrote reports but asserted his doctors never asked how often he wrote reports. Specifically, plaintiff testified the doctors who examined him "didn't say, well, do you write five reports a day, ten reports a day? They never asked." Plaintiff asserted that he did tell Dr. Thompson that he wrote lengthy reports and that "sometimes the reports [could] take two to three hours to write."

¶ 27 In December 2015, the Board issued its decision in the matter, approving a non-duty disability benefit for plaintiff based on evidence that he could not hold a firearm. The Board denied plaintiff's application for a duty-related disability benefit. In so holding, the Board deter-

mined plaintiff's asserted work-related cause of his disability—extensive report writing—occurred only infrequently. It also found that the physician's reports that supported a work-related cause for plaintiff's disability were unreliable because they contained inaccurate information regarding plaintiff's job duties. The Board further determined that "writing police reports [was] not a special risk inherent to police work" and plaintiff's act of "slouching" while writing reports "was a personal choice" rather than "an act of duty or job specific requirement that involve[d] special risk." Finally, the Board stated plaintiff was not credible as to the time or date of the onset of his symptoms and, through "his heavy usage of texting, *** was blatantly non-compliant" with physicians' directives for improving his symptoms.

¶ 28 In January 2016, plaintiff filed his complaint for administrative review of the Board's decision with the circuit court. He asked the court to reverse the Board's decision and order him entitled to line-of-duty disability benefits. In October 2016, the court determined the Board's decision was not against the manifest weight of the evidence and denied plaintiff's complaint for administrative review.

¶ 29 This appeal followed.

¶ 30 II. ANALYSIS

¶ 31 On appeal, plaintiff argues the Board's denial of a line-of-duty pension was against the manifest weight of the evidence. He maintains the evidence showed his work as a police officer "involved extensive report writing," which he performed "while on-duty and while on patrol in his squad car." Further, plaintiff contends that all of the medical opinion evidence in the record confirmed that report writing was a causative factor in his disability.

¶ 32 On administrative review, this court's role is to examine the Board's decision and

not the decision of the circuit court. *Jones v. Board of Trustees of Police Pension Fund of City of Bloomington*, 384 Ill. App. 3d 1064, 1067, 894 N.E.2d 962, 965 (2008). Whether the evidence in the record supports the Board’s denial of an application for a disability pension is a question of fact. *Marconi v. Chicago Heights Police Pension Board*, 225 Ill. 2d 497, 534, 870 N.E.2d 273, 293 (2006). The Board’s rulings on questions of fact are subject to a manifest weight of the evidence standard of review. *Wade v. City of North Chicago Police Pension Board*, 226 Ill. 2d 485, 504, 877 N.E.2d 1101, 1112 (2007). Further, the Board’s decision will be found to be “ ‘against the manifest weight of the evidence only if the opposite conclusion is clearly evident.’ ” *Id.* at 504-05, 877 N.E.2d at 1113 (quoting *Abrahamson v. Illinois Department of Professional Regulation*, 153 Ill. 2d 76, 88, 606 N.E.2d 1111, 1117 (1992)).

¶ 33 “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.” *Robbins v. Board of Trustees of Carbondale Police Pension Fund of City of Carbondale*, 177 Ill. 2d 533, 538, 687 N.E.2d 39, 42 (1997). Instead, “[i]f the record contains evidence to support the agency’s decision, that decision should be affirmed.” *Marconi*, 225 Ill. 2d at 534, 870 N.E.2d at 294. Finally, we note that “a plaintiff to an administrative proceeding bears the burden of proof, and relief will be denied if he or she fails to sustain that burden.” *Id.* at 532-33, 870 N.E.2d at 293.

¶ 34 Under section 3-114.1(a) of the Pension Code, a disabled police officer is entitled to a disability pension of at least 65% of his salary for injuries “incurred in or resulting from the performance of an act of duty.” 40 ILCS 5/3-114.1(a) (West 2012). Alternatively, a police officer is entitled to a “not on duty” disability pension of 50% of his salary if he “becomes disabled as a

result of any cause other than the performance of an act of duty.” 40 ILCS 5/3-114.2 (West 2012). The Pension Code defines an “act of duty” as follows:

“Any act of police duty inherently involving special risk, not ordinarily assumed by a citizen in the ordinary walks of life, imposed on a policeman by the statutes of this State or by the ordinances or police regulations of the city in which this Article is in effect or by a special assignment; or any act of heroism performed in the city having for its direct purpose the saving of the life or property of a person other than the policeman.” 40 ILCS 5/5-113 (West 2012).

Further, “[t]he performance of an act of duty need not be the sole cause of the disability” for a disabled officer to be entitled to a line-of-duty pension. *Alm v. Lincolnshire Police Pension Board*, 352 Ill. App. 3d 595, 598, 816 N.E.2d 389, 392 (2004).

¶ 35 Here, there is no dispute that plaintiff suffers from TOS and is disabled from working as a police officer. Rather, the issue on appeal is whether plaintiff’s TOS was incurred in or resulted from his performance of an act of duty. As discussed, plaintiff argues the evidence presented to the Board established that his work as a police officer, and his “extensive report writing” in particular, was a causative factor in his development of TOS. The Board rejected plaintiff’s assertion, finding, in part, that plaintiff’s report writing was infrequent and the medical opinions causally relating plaintiff’s TOS to his police duties were based on inaccurate accounts of plaintiff’s job duties. We find the record contains sufficient support for the Board’s factual findings and it committed no error.

¶ 36 During his testimony, plaintiff agreed that, in the final 16 months he performed full-duty police work, January 1, 2012, through April 24, 2013, he wrote 45 one-page traffic cita-

tions, 15 one-page crash reports, and 93 two- to three-page incident reports. From this information, the Board determined that, “[o]n average, [plaintiff] prepared a traffic ticket about three times a month, approximately [one] crash report per month, and about six incident reports per month.” It characterized plaintiff’s report writing as “glaringly minimal” and “infrequent[.]” Given the evidence presented, we cannot disagree. Specifically, a reasonable inference from the evidence presented is that report writing was not a regular, everyday occurrence for plaintiff in the execution of his police duties. Additionally, the record suggests that the reports plaintiff did complete were not lengthy. We note plaintiff himself characterized an “extended” report as one comprising three to four pages. However, close to half of the “reports” plaintiff admitted preparing from January 2012 to April 2013 consisted of only a single page. Plaintiff testified the remainder of the reports he prepared were typically only two to three pages.

¶ 37 On appeal, plaintiff points out that information in the record also indicated that, in 2011, he completed 137 narrative case reports and 100 traffic citations and crash report forms. Applying the same analysis as the Board, the record indicates that, in 2011, plaintiff completed an average of 11 incident reports per month and 8 traffic citations and crash reports per month. However, we find this additional information is not significantly different from the numbers expressly relied upon by the Board in finding plaintiff prepared a minimal number of reports. Accordingly, it does not warrant reversal of the Board’s decision.

¶ 38 Based on plaintiff’s testimony and the evidence as to the specific number of reports he prepared from 2011 to 2013, we find an opposite conclusion from the Board’s finding that plaintiff’s report writing was minimal and infrequent was not clearly evident. Thus, its finding was not against the manifest weight of the evidence.

¶ 39 As stated, the Board further rejected the medical causation opinions relied upon by plaintiff from Drs. Thompson, Warren, Mehra, and DeBord, finding they were based on inaccurate information regarding plaintiff's job duties. Instead, the Board expressed agreement with Dr. Warach's opinion that plaintiff's "body habitus [was] the likely cause" of plaintiff's TOS. Again, we can find no error in the Board's determination.

¶ 40 On appeal, plaintiff argues the amount of writing he performed "was significant enough" for the evaluating physicians to find it was a causative factor in his disabling condition. However, plaintiff's testimony at the hearing before the Board indicated that the evaluating physicians were unaware of the number of reports he wrote during any given time period. Plaintiff acknowledged that, although he told the doctors who examined him that he wrote reports, he was never asked how many reports he had written. Specifically, he testified his evaluating doctors "didn't say, well, do you write five reports a day, ten reports a day? They never asked." Thus, plaintiff's own testimony indicates his physicians lacked complete information regarding his job duties, particularly report writing.

¶ 41 We note plaintiff testified he did inform Dr. Thompson that that he wrote lengthy reports that could "take two to three hours to write." However, the record lacks evidence to support this claim. As discussed above, the Board's finding that plaintiff's report writing was minimal and infrequent was supported by the record and not against the manifest weight of the evidence. Thus, to the extent the physicians relied upon repetitive or extensive report writing by plaintiff in finding a work-related source of causation, their opinions were without a sufficient basis.

¶ 42 Further, the Board determined there were additional ways in which the medical

opinions relied upon by plaintiff were “inconsistent” with the evidence presented regarding his job duties. Specifically, in addition to plaintiff’s writing activities, Drs. Thompson, Warren, Mehra, and DeBord also causally related plaintiff’s TOS to long periods of typing, using a firearm on a regular basis, and many years of long-distance driving (Dr. Thompson); using a computer in his squad car (Dr. Warren); grabbing people (Dr. Mehra); and repetitive typing of reports, use of his patrol car’s computer, the sudden motions and strains of physically apprehending a suspect, and multiple sessions of shooting firearms (Dr. DeBord). The Board found plaintiff’s evidence contradicted these findings or that they were otherwise unsubstantiated by the record. Given the evidence presented, we can find no error.

¶ 43 Here, plaintiff testified he handwrote all of his reports, and no evidence was presented that he engaged in any “long periods of typing” or “repetitive typing of reports.” As determined by the Board, evidence also was lacking as to the frequency with which plaintiff used his squad car’s computer. Similarly, there was no evidence offered by plaintiff to support a finding that he engaged in “many years of long distance driving.” Further, plaintiff’s testimony regarding his “use of a firearm” and apprehension or subduing of suspects fell far short of establishing that either activity was one he routinely or regularly performed in the course of his police duties.

¶ 44 Finally, relying on Dr. Warach’s opinion, the Board determined that plaintiff’s body habitus was likely the cause of his TOS. Plaintiff argues Dr. Warach’s opinion was supportive of a line-of-duty pension, arguing “Dr. Warach specifically found that [p]laintiff having to write reports while in his squad car was a causative factor in [his] disability.” We disagree. First, plaintiff misstates Dr. Warach’s opinion. The record shows Dr. Warach opined that “exten-

sive” writing or computer use could have “predisposed” plaintiff to TOS, not simply the writing of reports in a car. Second, as discussed, plaintiff’s evidence failed to establish that he engaged in extensive report writing. Therefore, even if extensive report writing is a likely cause of TOS, the evidence *in this case* fails to demonstrate that plaintiff engaged in such an activity. Finally, Dr. Warach opined that it was “most likely” that plaintiff’s “body habitus predisposed to [TOS].” The Board relied on this finding after “consideration of the inconsistencies between the actual events and the activities described in the physicians’ records.” For the reasons discussed, we find no error in the Board’s determination.

¶ 45 Here, the Board’s finding that plaintiff failed to establish that writing reports was a causative factor of his TOS was supported by the record. An opposite conclusion is not clearly evident and, as a result, the Board’s decision, denying plaintiff a line-of-duty pension, was not against the manifest weight of the evidence. In so holding, we note the Board provided an alternative basis for denying plaintiff’s application for a line-of-duty pension—finding the act of writing reports was “not a special risk inherent to police work” and, therefore, not an “act of duty” as defined in the Pension Code. Plaintiff also challenges this finding on appeal. However, because we uphold the Board’s finding that plaintiff failed to establish that writing reports caused his TOS, we find it is unnecessary to address this additional challenge to the Board’s decision.

¶ 46 III. CONCLUSION

¶ 47 For the reasons stated, we affirm the circuit court’s judgment.

¶ 48 Affirmed.