

Workers' Compensation
Commission Division
Filed: November 5, 2012

No. 1-11-2560WC

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IN THE APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT
WORKERS' COMPENSATION COMMISSION DIVISION

CITY COLLEGES OF CHICAGO,)	Appeal from the Circuit
)	Court of Cook County
Appellant,)	
)	
v.)	No. 10 L 517333
)	
ILLINOIS WORKERS' COMPENSATION)	
COMMISSION, et al., (LIZA ENRIQUEZ,)	Honorable
)	Elmer J. Tolmaire, III,
Appellee).)	Judge Presiding.

JUSTICE HOFFMAN delivered the judgment of the court.
Justices Hudson, Holdridge, Turner, and Stewart concurred in the judgment.

ORDER

- ¶ 1 Held: 1. The Commission's award of temporary total disability benefits for the period after October 11, 2006, the date upon which the claimant's treating physician found the claimant to have reached maximum medical improvement, is against the manifest weight of the evidence.
2. The Commission's finding that May 20, 2003, is the manifestation date of the claimant's repetitive-trauma injury is not against the manifest weight of the evidence.
- ¶ 2 The City Colleges of Chicago (City Colleges) appeals from an order of the Circuit Court of Cook County which confirmed a decision of the Illinois Workers' Compensation Commission

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(Commission), awarding the claimant, Liza Enriquez, certain benefits pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 et seq. (West 2008)), for injuries she suffered while in its employ. For the reasons which follow, affirm in part, reverse in part, and remand the cause to the Commission with directions.

¶ 3 The following factual recitation is taken from the evidence adduced at the arbitration hearing conducted on November 16, 2009.

¶ 4 The 54-year-old claimant testified that she began working as a clerical assistant II for City Colleges on June 1, 1988. Her duties included processing the registration files of applicants to the nursing department, answering student inquiries in person at the walk-up counter and over the telephone, updating hard-copy files in the nursing department, processing registration information and applications in the English as a Second Language (ESL) department, and entering mid-term and final grades in the computer system. She was also responsible for entering applicants' information during open registration for classes. The majority of these tasks were completed by the use of a computer. The claimant testified that, on an average day, she would spend between three and four hours typing on a keyboard, but she might be required to use a keyboard for as many as five continuous hours during enrollment periods.

¶ 5 The claimant further testified that, on September 3, 2002, she first sought treatment with her primary care physician, Dr. Maria Gonzales, for the symptoms in her right hand. At that time, she was experiencing severe pain, inflammation, and numbness in her right hand and right ring finger. Prior to that time, she had not had any treatment for the problems that had developed in her right hand and wrist. According to the claimant, Dr. Gonzales diagnosed carpal-tunnel syndrome and indicated that the condition "was related to work." Dr. Gonzales gave the claimant a brace for her right wrist and referred her to Dr. Dennis Mess, an orthopedic doctor.

¶ 6 When the claimant consulted Dr. Mess on November 27, 2002, she complained of pain in her right hand, but she did not report any complaints regarding her left hand or wrist. Upon

examination, Dr. Mess found that the claimant had Tinel's and Phalen's symptoms, with minor thenar wasting and somewhat diminished sensation. He ordered light-duty work restrictions and recommended that the claimant consider a carpal-tunnel release. Dr. Mess also noted that the claimant "had a long history of carpal tunnel syndrome in the right hand." During his evidence deposition, Dr. Mess explained that this notation regarding the duration of the claimant's carpal-tunnel syndrome "could not be specific," but it "probably means a couple of years."

¶ 7 The claimant testified that she wore the brace, which had been given to her by Dr. Gonzales, while she was working, and she informed her supervisor of her right wrist problems. In addition, she advised her supervisor of the light-duty work restrictions ordered by Dr. Mess, and these restrictions were noted in her human-resources file. According to the claimant, she was not offered light-duty work and was required to "do [her] job."

¶ 8 In February 2003, Dr. Mess referred the claimant to Dr. Benjamin Goldberg for a second opinion. When the claimant saw Dr. Goldberg on March 19, 2003, she reported that she had been diagnosed with right carpal-tunnel syndrome by Dr. Mess and that she had subsequently developed similar symptoms in the left wrist. Upon examination, Dr. Goldberg found that the claimant showed positive bilateral Phalen's and Tinel's signs, as well as bilateral thenar wasting, which was greater on the right than on the left. Based on these findings, Dr. Goldberg agreed that surgery would be appropriate. He ordered an EMG/NCV and referred the claimant back to Dr. Mess for further treatment and surgery.

¶ 9 On May 1, 2003, the claimant consulted Dr. Alfonso Mejia, a neurologist, for follow-up after the EMG/NCV. She was found to have moderate to severe bilateral carpal-tunnel syndrome, as well as right ring finger type IV triggering in extension.

¶ 10 The claimant continued to see Dr. Mess and receive conservative treatment consisting of physical therapy. On May 20, 2003, Dr. Mess authored a letter recommending bilateral carpal-tunnel surgery. In this letter, Dr. Mess also expressed his opinion that the claimant's bilateral

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carpal-tunnel syndrome most likely was directly related to, or exacerbated by, her employment. He also was of the opinion that the claimant's right trigger finger and flexor tenosynovitis, which are conditions that commonly accompany carpal-tunnel syndrome, were probably work related. These opinions were reiterated in a letter dated September 11, 2003.

¶ 11 On June 27, 2003, the claimant submitted to an examination by Dr. Harold T. Pye, at the request of City Colleges. Dr. Pye found that the claimant demonstrated positive Phalen's and Tinel's signs at the wrist. It was his opinion that the claimant suffered from bilateral carpal-tunnel syndrome, caused by 14 years working as a data-entry clerk, and that the keyboarding portion of her occupation was exacerbating her condition. He agreed that she was a candidate for bilateral carpal-tunnel decompression surgery. He also opined that, aside from her occupation as a clerk, the claimant did not have any medical risk factors that would account for her symptoms.

¶ 12 On August 4, 2003, the claimant was examined by Dr. Thomas A. Wiedrich, at the request of City Colleges. According to Dr. Wiedrich, the claimant reported a history of bilateral hand problems, right greater than the left, beginning in late 2002. Dr. Wiedrich reviewed the EMG conducted in April 2003, which showed moderate to severe bilateral carpal-tunnel syndrome, without any evidence of cervical radiculopathy. Dr. Wiedrich found bilateral mild thenar atrophy and concluded that the claimant had positive bilateral Tinel's signs and Phalen's maneuver. It was Dr. Wiedrich's opinion that the claimant was a candidate for bilateral carpal-tunnel releases. He also found evidence that she might have ruptured the flexor digitorum profundus tendon of her right ring finger, and he did not believe this condition was unrelated to her employment. Dr. Wiedrich did not express an opinion regarding the relationship of the carpal-tunnel syndrome to the claimant's work.

¶ 13 On October 18, 2003, the claimant underwent a right carpal-tunnel release. Following that procedure, the claimant was off work for approximately six weeks. During that time, her symptoms initially decreased, but then returned when she resumed her work activities. On

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November 1, 2003, she returned to Dr. Mess for a two-week post-surgical examination. At that time, she still had some triggering of the right ring finger, which Dr. Mess felt was most likely related to her work duties and to the underlying carpal-tunnel syndrome. Because the claimant had undergone previous injections of the right ring finger, Dr. Mess determined that he would perform a trigger-finger release, if the condition of that finger did not improve.

¶ 14 On January 29, 2004, Dr. Mess performed the trigger-finger release on the claimant's right ring finger. Following her return to work, the claimant again saw Dr. Mess on May 15, 2004, and reported continuing complaints of left carpal-tunnel symptoms and worsening of the condition of the PIP joint of the right ring finger. Dr. Mess observed that, over the course of the previous three months, the motion in the joint had decreased to zero.

¶ 15 On September 16, 2004, the claimant underwent a third surgery, consisting of a left carpal- tunnel release and DIP tenodesis, which consisted of a repair of the ruptured tendon in her right ring finger. Thereafter, the claimant continued to treat with Dr. Mess, who prescribed physical therapy and work restrictions, limiting the amount of time spent typing on a keyboard to 30 minutes per hour. Dr. Mess also ordered other work accommodations, such as ergonomic appliances. When he saw the claimant two days later, she complained of jamming her right ring finger. Three weeks after the surgery, the pin was removed from the claimant's finger.

¶ 16 In October 2004, the claimant filed an application for adjustment of claim with the Commission, alleging that she sustained injuries to her left and right arms and hands on February 14, 2003, as a result of repetitive trauma.

¶ 17 The claimant returned to see Dr. Mess for an outpatient therapy evaluation on November 2, 2004. At that time, the pain in her right ring finger had not changed, but the pain caused by the left carpal tunnel had improved by 50%. On December 4, 2004, she returned to work, and Dr. Mess ordered that she use a keyboard for only 30 to 60 minutes.

¶ 18 On April 27, 2005, the claimant followed up with Dr. Mess and complained of recurring

numbness in the fingers of both hands. Her complaints were of difficulty using the mouse with the right hand, as well as nondescript complaints of pain in both hands. Given the claimant's continuing complaints, Dr. Mess believed that she should find a job that required less keyboard work.

¶ 19 On October 20, 2005, the claimant consulted Dr. Mejia for a second opinion. Dr. Mejia found her to have decreased sensation in the right hand, pain in the right fingers, decreased sensation in the left hand, and pain in the left thumb.

¶ 20 The claimant returned to Dr. Mess on November 23, 2005. Due to her continued complaints of pain in both hands, he concluded that the claimant was unable to continue or resume her work with a keyboard and needed to be retrained for a job that does not involve repetitive manual tasks.

¶ 21 On January 17, 2006, the attorney representing City Colleges sent the claimant a letter notifying her that she was to refrain from reporting for work. He further advised that City Colleges wished to obtain another examination to determine the appropriateness of the work restrictions that had been ordered by Dr. Mess in November 2005.

¶ 22 On February 27, 2006, the claimant was examined by Dr. Charles Carroll, at the request of City Colleges. According to Dr. Carroll, the claimant reported a history of discomfort in both of her hands as early as 2000, after having performed clerical work and data entry since 1988. Dr. Carroll found that her prior treatment and surgery was reasonable, appropriate, and necessary. In addition, based on the claimant's history of heavy keyboard use, Dr. Carroll believed that there was a relationship between her employment and the development of bilateral carpal-tunnel syndrome. Dr. Carroll recommended that the claimant's work duties be modified to limit her keyboarding to 15 minutes during a one-hour period, as well as stretching every hour or two and variation of her job tasks. Dr. Carroll also recommended another EMG and a functional capacity evaluation.

¶ 23 On May 4, 2006, Dr. Carroll provided a supplemental report in which he revised his causation opinion based on a job analysis that had been prepared by an outside firm at the request of City Colleges. The job analysis indicated that a typical work day for a clerical assistant II requires performing approximately one hour of keyboarding or typing, which is interspersed throughout the day. According to the analysis, this type of data entry involves short intervals with either student-identification number, course number, or character entry, but no preparation of documents, paragraphs or reports. In addition, 50% of the work day is spent updating hard-copy paper files, which involves assembly, as well as inserting and sequencing documents. Two or three times per day, a clerical assistant II is required to type the complete address of a student, and clerks are able work at their own pace in performing these tasks. The job analysis also indicated that clerks answer the telephone and respond to inquiries 25% of the day. Approximately 10% of the time, a clerk might also be doing concurrent data entry in order to retrieve the necessary information. The clerks may also answer the telephone in combination with the other primary job duties throughout the day. Also, a clerk is required to rotate responsibility for assisting students at the counter, which consists of 25% of the day. Performance of this function may require a minimal amount of data entry, and it is interspersed with answering the telephone and updating paper files. During enrollment periods, a clerical assistant II is assigned a three- to four-hour shift, is provided with an ergonomic workstation and equipment, and is required to perform short intervals of data entry for approximately two-thirds of that shift. The entry of mid-term and final grades comprises 80% of the work day during those time periods.

¶ 24 In his supplemental report, Dr. Carroll expressed his opinion that the claimant's carpal-tunnel syndrome would not have been caused by the activities described in the job analysis. Dr. Carroll further opined that the described tasks would not cause triggering of the fingers. At his deposition, Dr. Carroll stated that the duties included in the job analysis were dramatically

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different from those indicated by the claimant at the time of the examination. Dr. Carroll acknowledged that his revised opinions were based on the assumption that the descriptions of the claimant's employment duties in the job analysis were accurate and consistent with her actual work responsibilities.

¶ 25 When the claimant returned to Dr. Mess on July 26, 2006, she was still experiencing chronic carpal-tunnel symptoms. Dr. Mess opined that her carpal-tunnel syndrome and triggering of the right ring finger are probably work-related. He provided the claimant a note indicating that she could resume some limited work duties, including sedentary clerical work and keyboard use that is limited to 10 minutes per hour. In addition, he provided her with a referral for physical therapy evaluation and treatment as needed.

¶ 26 The claimant next saw Dr. Mess on October 11, 2006, and reported that she was still experiencing carpal-tunnel symptoms. Dr. Mess again recommended that she be retrained for a job that involves little or no keyboarding. Her complaints had not changed since the July 2006 treatment date, during which he had recommended further physical therapy.

¶ 27 In September 2006, the claimant began receiving disability benefits from the State Universities Retirement System, based on her continuing bilateral carpal-tunnel syndrome and the triggering of her right ring finger. Attached to her application for such benefits was a physician's disability-report form completed by Dr. Mess, which stated that the claimant's diagnosis was bilateral carpal-tunnel syndrome and the rupture of a tendon in the right ring finger, which required permanent work restrictions. Dr. Mess also checked a box indicating that the claimant had reached MMI, though he did not provide information regarding the date on which she had been released to return to work and the restrictions that had been ordered. In addition, he answered "unknown" in response to the inquiry of whether any further therapy would be reasonably expected to result in full or partial recovery. On April 15, 2009, Dr. Mess completed a physician's disability-report form in support of the claimant's request for

continuation of her disability benefits, indicating that the claimant would never be able to work without restrictions.

¶ 28 At his deposition, Dr. Mess testified that it is very common for patients to experience carpal-tunnel symptoms for a long time before they voice complaints. He explained that the syndrome is a slow, insidious condition that builds up and is intermittent. As a result, it is common for patients ignore it and refrain from seeking treatment until it builds up to a point at which it interferes with their daily activities. In addition, Dr. Mess acknowledged that he had not examined the claimant since October 2006.

¶ 29 The claimant began treating with Dr. John J. Fernandez on September 11, 2007. At that time, she reported a history of treatment for work-related carpal-tunnel syndrome. She had undergone multiple surgeries, including a right and left carpal-tunnel release, a trigger-finger release of the right ring finger, a revision of that trigger-finger surgery, and a tenodesis of the right ring finger. The claimant's carpal-tunnel syndrome had not resolved, and she continued to complain of numbness and tingling. However, her primary complaint was a new injury to her right ring finger, which apparently occurred while she was wringing out her hair in July 2007. Upon examination, Dr. Fernandez found that the claimant's finger was almost completely bent into her hand; she had pain and tenderness at that joint, and the tendon had basically come off of the finger. Dr. Fernandez diagnosed a rupture of the A2 pulley, which is the band that goes around the tendon in the right ring finger, as well as a severe PIP joint flexion contracture. During that initial visit, he discussed conservative treatment, as well as various surgical options. Dr. Fernandez referred the claimant for physical therapy and use of a dynamic splint before she made a decision with regard to further treatment.

¶ 30 When the claimant returned on January 10, 2008, her diagnosis had not changed, but her condition had deteriorated. The flexion contracture was 90 degrees, and Dr. Fernandez again discussed the risks and benefits of various treatment options. Dr. Fernandez recommended that

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the claimant undergo a joint fusion, which he ultimately performed on February 18, 2008. During that procedure, Dr. Fernandez cut the proximal joint and implanted a set of pins and a wire to hold the bones together. Over time, the two bones fuse into one, preventing movement at that joint. During the next three months, the claimant's condition gradually improved, but she continued to experience pain and had problems with minor tasks, such as typing, writing and grocery shopping.

¶ 31 Dr. Fernandez examined the claimant on May 1, 2008, he found that she had developed Dupuytren's disease, which is a thickening of the fascia of the hand that causes contracture by drawing the finger down into the palm. In June 2008, the claimant reported more complaints relating to the Dupuytren's disease in her right ring finger. Physical examination revealed that the thickening of the palmar fascia was evident, and Dr. Fernandez discussed performing a surgical option to treat the disease. On July 21, 2008, he performed a fasciectomy, during which the Dupuytren's tissue was removed. After the surgery, the claimant wore a splint and participated in physical therapy, and Dr. Fernandez followed her care post-operatively. Dr. Fernandez last saw the claimant on October 16, 2008. At that time, she reported complaints related to bilateral trigger thumbs, and Dr. Fernandez discussed treatment options for that condition.

¶ 32 At his deposition, Dr. Fernandez testified that all of the treatment that he provided for the claimant's right ring finger was related to her previous employment injury and the subsequent treatment and surgeries for that injury. He explained that, although the tendon apparently snapped while the claimant was wringing out her hair, that type of activity generally would not have caused any of the problems she had experienced. According to Dr. Fernandez, even extremely forceful wringing action would not lead to an A2 pulley rupture. In his opinion, the claimant's tendon was significantly diseased and abnormal, which then led to a destruction of the tendon while she was performing a normal activity. Dr. Fernandez further opined that the

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claimant's previous surgeries created a condition that weakened the tendon and sheath, which then led to a natural failure of the tendon. He also stated that it is not unusual for trigger thumbs to be related to carpal-tunnel syndrome, but they also can occur idiopathically. Dr. Fernandez also testified that, during the course of his treatment of the claimant, he never included carpal-tunnel syndrome as an active diagnosis, nor did he institute any treatment recommendation for that condition.

¶ 33 The claimant testified that, as of the date of the hearing, she continued to have pain in both of her hands and also had difficulty performing certain tasks, such as opening doors and grasping pots and pans. She further testified that the condition in her hands had not changed since she stopped working at City Colleges in January 2006. The claimant also stated that City Colleges never provided her any light-duty work or other accommodations in accordance with the restrictions recommended by Dr. Mess and Dr. Carroll. In addition, the claimant denied that she told Drs. Pye and Carroll that she had sought treatment for numbness and pain in her wrists as early as 2000. She also disputed much of the information contained in the job analysis that was prepared at City Colleges' request and on which Dr. Carroll's revised opinions were based. In particular, the claimant testified that the description of the amount of time spent using a keyboard was inaccurate, as was the statement that an ergonomic workstation and equipment were provided during enrollment periods.

¶ 34 Prior to the commencement of the arbitration hearing on November 16, 2009, the parties, through their respective attorneys, prepared a request for hearing. In the request for hearing, City Colleges stipulated that it had received timely notice of the claimant's employment injury. City Colleges further stipulated that the claimant earned \$44,930 in the year immediately preceding the manifestation of the injury and that the claimant was totally disabled from February 17, 2006, to the date of the arbitration hearing.

¶ 35 Upon consideration of the evidence presented at the hearing, the arbitrator found that the

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claimant had sustained a work-related injury and that the current conditions of ill-being in the claimant's right and left hands and right ring finger are causally connected to her employment. Yet, the arbitrator found that the manifestation date of February 14, 2003, as alleged by the claimant in her application for adjustment of claim, was not supported by the evidence. Based on the claimant's testimony and the medical evidence presented at the hearing, the arbitrator sua sponte determined that the claimant's repetitive-trauma injury manifested itself on May 20, 2003, which was the date of Dr. Mess' letter expressing his opinion that the claimant's condition of ill-being was related to her work. The arbitrator further found that the claimant's trigger thumbs and the A2 pulley rupture are not related to her employment and, therefore, are not compensable under the Act. The arbitrator determined that the claimant is entitled to temporary total disability (TTD) benefits for 195 $\frac{4}{7}$ weeks from February 17, 2006, through the date of the hearing on November 16, 2009. The arbitrator also found that the claimant had sustained a permanent partial disability (PPD) to the extent of 20% loss of use of her right hand, left hand, and right ring finger and awarded her PPD benefits of \$518.43 per week for a period of 81 weeks, pursuant to section 8(e) of the Act (820 ILCS 305/8(e) (West 2008)).

¶ 36 City Colleges sought review of the arbitrator's decision before the Commission. In a unanimous decision, the Commission affirmed and adopted the findings of the arbitrator. Thereafter, City Colleges sought review of the Commission's decision in the circuit court of Cook County. The circuit court confirmed the Commission's decision, and this appeal followed.

¶ 37 We initially address City Colleges' argument that the Commission's award of TTD benefits is against the manifest weight of the evidence, where such benefits were granted for several months after the claimant had reached MMI. In response, the claimant asserts that this argument has been forfeited by City Colleges' agreement to the TTD period specified in the request for hearing. We note, however, that, throughout the administrative proceedings and on judicial review in the circuit court, City Colleges consistently disputed its liability for TTD

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benefits from February 17, 2006, through November 16, 2009. Accordingly, we reject the claimant's assertion that City Colleges has forfeited this issue.

¶ 38 A claimant is temporarily totally disabled from the time an injury incapacitates her from work until such time as she is as far recovered or restored as the permanent character of his injury will permit. *Archer Daniels Midland Co. v. Industrial Comm'n*, 138 Ill. 2d 107, 118, 561 N.E.2d 623 (1990). The dispositive test is whether the claimant's condition has stabilized, i.e., whether he has reached MMI. *Nascote Industries v. Industrial Comm'n*, 353 Ill. App. 3d 1067, 1072, 820 N.E.2d 570 (2004). In determining whether a claimant has reached MMI, a court may consider factors such as a release to return to work, and medical testimony or evidence concerning the claimant's injury, the extent thereof, and, most importantly, whether the injury has stabilized. *Nascote Industries*, 353 Ill. App. 3d at 1072. Once an injured claimant has reached MMI, the disabling condition has become permanent and he is no longer eligible for TTD benefits. *Archer Daniels Midland Co.*, 138 Ill. 2d at 118.

¶ 39 The time during which a claimant is temporarily totally disabled presents a question of fact to be determined by the Commission (*Archer Daniels Midland Co.*, 138 Ill. 2d at 119-20), as does the determination of whether a causal relationship exists between a claimant's employment and her current condition of ill-being (*Cassens Transport Co. v. Industrial Comm'n*, 262 Ill. App. 3d 324, 331, 633 N.E.2d 1344 (1994)). A factual finding by the Commission will not be set aside on review unless it is against the manifest weight of the evidence. *Franklin v. Industrial Comm'n*, 211 Ill. 2d 272, 279, 811 N.E.2d 684 (2004); *University of Illinois v. Industrial Comm'n*, 365 Ill. App. 3d 906, 910, 851 N.E.2d 72 (2006). A finding of fact is contrary to the manifest weight of the evidence only when the opposite conclusion is clearly apparent. *Elmhurst Memorial Hospital v. Industrial Comm'n*, 323 Ill. App. 3d 758, 765, 753 N.E.2d 1132 (2001); *University of Illinois*, 365 Ill. App. 3d at 910.

¶ 40 Here, City Colleges argues that the Commission's decision to award TTD benefits after

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October 11, 2006, is against the manifest weight of the evidence, where Dr. Mess stated that the claimant had reached MMI as of that date. City Colleges also relies on the fact that none of the treatment rendered to the claimant after October 2006 was directly related to her carpal-tunnel syndrome or to the triggering of her right ring finger. We must agree.

¶ 41 The record establishes that the Commission found that only the claimant's carpal-tunnel syndrome and the triggering of her right ring finger were causally connected to her employment. The claimant's treatment for those two conditions ended when she last saw Dr. Mess on October 11, 2006. As of that date, Dr. Mess determined that the claimant had reached MMI and that the conditions of ill-being in her right and left wrists and her right ring finger were permanent, as was her need for work restrictions. In addition, at the arbitration hearing, the claimant acknowledged that the condition of her hands had not changed since January 2006. Although Dr. Fernandez testified that the subsequent rupture of the A2 pulley and the PIP joint flexion contracture were causally related to the claimant's previous work injury and treatment, the Commission found no causal connection with regard to those injuries and treatment. Moreover, Dr. Fernandez testified that he never included the claimant's carpal-tunnel syndrome as an active diagnosis, nor did he institute any treatment recommendations for that condition.

¶ 42 The claimant did not present any evidence indicating that she was still receiving treatment for her carpal-tunnel syndrome as of the date of the arbitration hearing, and the arbitrator's finding in this regard, which was adopted and affirmed by the Commission, is against the manifest weight of the evidence. Because the A2 pulley rupture and ensuing Dupuytren's disease were found not to be related to the claimant's employment, the treatment rendered by Dr. Fernandez had no bearing on the determination as to the duration of the claimant's TTD. Consequently, the Commission's decision that the claimant was entitled to TTD benefits through the date of the hearing on November 16, 2009, must be set aside, and the cause must be remanded for entry of a TTD award from February 17, 2006, to October 11, 2006, which is the

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date on which the claimant's treating physician found she had reached MMI for the injuries that were causally connected to her employment.

¶ 43 City Colleges also argues that the Commission's decision must be reversed as against the manifest weight of the evidence because it adopted the arbitrator's sua sponte finding as to the manifestation date of the claimant's repetitive trauma injury. This argument is without merit.

¶ 44 A claimant may recover under the Act for an injury that develops gradually over a period of time as a result of a repetitive trauma, without requiring complete dysfunction, if the injury is caused by the performance of claimant's job. *Cassens Transport Co. v. Industrial Comm'n*, 262 Ill. App. 3d 324, 330, 633 N.E.2d 1344 (1994). An employee who suffers a repetitive-trauma injury must meet the same standard of proof as an employee who suffers a sudden injury. *Durand v. Industrial Comm'n*, 224 Ill. 2d 53, 64, 862 N.E.2d 918 (2006); *Nunn v. Industrial Comm'n*, 157 Ill. App. 3d 470, 480, 510 N.E.2d 502 (1987). Therefore, an employee suffering from a repetitive-trauma injury is required to point to a date within the limitations period on which both the injury and its causal link to the employee's work became plainly apparent to a reasonable person. *Durand*, 224 Ill. 2d at 65; *Peoria County Belwood Nursing Home v. Industrial Comm'n*, 115 Ill. 2d 524, 531, 505 N.E.2d 1026 (1987). The determination of the manifestation date is a question of fact to be resolved by the Commission (*Durand*, 224 Ill. 2d at 65), and that decision will not be set aside on appeal unless it is against the manifest weight of the evidence (*Three "D" Discount Store v. Industrial Comm'n*, 198 Ill. App. 3d 43, 47, 556 N.E.2d 261 (1989)).

¶ 45 In deciding the manifestation date of a repetitive-trauma injury, courts consider various factors, including the dates on which (1) the claimant first sought medical attention for the condition, (2) the claimant was first informed by a physician that the condition is work-related, (3) the claimant was first unable to work as a result of the condition, (4) the symptoms became more acute at work, and (5) the claimant first noticed the symptoms of the condition. See

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Durand, 224 Ill. 2d at 68-70 (citing Peoria County, 115 Ill. 2d at 531; Three "D" Discount Store, 198 Ill. App. 3d at 47-48, 556 N.E.2d 261 (1989); Oscar Mayer & Co. v. Industrial Comm'n, 176 Ill. App. 3d 607, 611-12, 531 N.E.2d 174 (1988)). The facts must be closely examined in repetitive-injury cases to ensure a fair result for both the faithful employee and the employer's insurance carrier. Durant, 224 Ill. 2d at 71 (citing Three "D" Discount Store, 198 Ill. App. 3d at 49).

¶ 46 In this case, the claimant's application for benefits alleged that her repetitive-trauma injury manifested itself on February 14, 2003. However, upon consideration of the evidence, the arbitrator sua sponte found that the manifestation date was May 20, 2003, and the Commission adopted and affirmed the arbitrator's decision. City Colleges now challenges the Commission's determination as to the manifestation date, arguing that the claimant knew several months before May 2003 that the condition of ill-being in her hands was work-related.

¶ 47 The record reveals that the claimant first sought treatment for carpal-tunnel symptoms in her right hand when she consulted Dr. Gonzales on September 3, 2002. At that time, Dr. Gonzales gave the claimant a wrist brace and prescribed Motrin for pain. Dr. Gonzales also indicated that the pain in the claimant's right hand was "most likely" related to her work, and she referred the claimant to Dr. Mess. When the claimant saw Dr. Mess on November 27, 2002, he diagnosed carpal-tunnel syndrome in the right hand and recommended surgery. Thereafter, the claimant consulted Dr. Goldberg for a second opinion on March 19, 2003. On that date, the claimant first complained of pain or problems in her left hand. Dr. Goldberg ordered an EMG/NCV test, which was performed on April 5, 2003. This was the first diagnostic test that was performed to confirm the provisional diagnosis of the condition of ill-being in the claimant's hands. The claimant then saw Dr. Mess on May 15, 2003, and he reviewed the findings of the EMG test, which revealed that she suffered from moderately severe bilateral carpal-tunnel syndrome. Dr. Mess subsequently drafted a letter, dated May 20, 2003, stating that, based on his

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examination of the claimant and of the EMG test results, he was of the opinion that the claimant's symptoms were directly related to, or were exacerbated by, her employment. Based on this record, we cannot say that the Commission's manifestation-date finding of May 20, 2003, is against the manifest weight of the evidence.

¶ 48 Moreover, even if the arbitrator may have incorrectly identified the manifestation date, the error is of no consequence here. City Colleges has abandoned its previous assertion that the claimant's request for benefits under the Act is barred by the three-year statute of limitations governing such claims. See 820 ILCS 305/6(d) (West 2010). In light of this circumstance, the argument that the Commission erred in determining the manifestation date is relevant only because it provides the underlying premise for City Colleges' related contentions that the award of benefits must be reversed because the record does not establish that it received timely notice of the injury manifested on May 20, 2003, nor does it establish the claimant's average weekly wage for the year preceding that date. Yet, City Colleges has forfeited both of these contentions by failing to include them in its statement of exceptions to the Commission. See *Thomas v. Industrial Comm'n*, 78 Ill. 2d 327, 336, 399 N.E.2d 1322 (1980); *Greaney v. Industrial Comm'n*, 358 Ill. App. 3d 1002, 1020, 832 N.E.2d 331 (2005).

¶ 49 For the foregoing reasons, we conclude that the Commission's determination of the manifestation date of the claimant's repetitive trauma injury is not against the manifest weight of the evidence, but its award of TTD benefits for 195 4/7 weeks from February 17, 2006, to November 16, 2009, is against the manifest weight of the evidence. Accordingly, that portion of the circuit court's order confirming the Commission's award of TTD benefits is reversed; the circuit court's judgment is affirmed in all other respects; that portion of the Commission's decision awarding the claimant TTD benefits is vacated; and the cause is remanded to the Commission for entry of an award of TTD benefits from February 17, 2006, to October 11, 2006.

¶ 50 Circuit court affirmed in part and reversed in part; Commission decision vacated in part.

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Cause remanded with directions.