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

COMMUNITY MEMORIAL HOSPITAL,)	Appeal from the Circuit Court
)	of Macoupin County.
Plaintiff-Appellant,)	
)	
v.)	No. 10-MR-7
)	
THE WORKERS' COMPENSATION)	
COMMISSION, et al.,)	
)	
Defendant-Appellee,)	Honorable
)	Kenneth R. Deihl,
(Mary Butts, Appellee).)	Judge, Presiding.

JUSTICE HUDSON delivered the judgment of the court.
Presiding Justice McCullough and Justices Hoffman, Holdridge, and Stewart concurred in the judgment.

ORDER

¶ 1 *Held:* The Commission erred in determining date at which claimant reached maximum medical improvement, but the balance of the Commission's decision was not contrary to the manifest weight of the evidence.

¶ 2 I. INTRODUCTION

¶ 3 Claimant, Mary Butts, filed an application for adjustment of claim pursuant to the Workers'

Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2002)) alleging she sustained an injury to her lower back while in the employ of respondent, Community Memorial Hospital. The Commission adopted the decision of the arbitrator finding claimant had sustained a work-related injury that ultimately left her permanently disabled. Accordingly, it awarded claimant 229 3/7 weeks of temporary total disability (TTD) benefits (820 ILCS 305/8a (West 2002)) in the amount of \$421.04 per week for the time prior to her condition stabilizing and permanent total disability (PTD) in the same amount per week for life for the time subsequent to claimant reaching maximum medical improvement. The circuit court confirmed the decision of the Commission. Respondent now appeals, and, for the reasons that follow, we affirm as modified.

¶ 4

II. BACKGROUND

¶ 5 At the arbitration hearing, claimant—a registered nurse—testified that on May, 6, 2004, she was working in respondent’s special care unit (SCU) (which she described as being a “step down” from the intensive care unit). She was assisting a patient move from a commode to a bed. The patient twisted, which, in turn, caused claimant to twist. Claimant felt a pop in her back and pain down her right leg. She had never experienced similar pain in the past (claimant had hurt her back on two other occasions¹). At the time she was injured on May 6, 2004, claimant was not experiencing any problems with her back. She finished her shift, however she almost fell at one point and she was unable to bend. She contacted her personal physician, Dr. Byers, the next day. He prescribed anti-inflammatory medication and instructed her to use ice. She continued to work until May 30; however, she experienced numerous problems, including difficulty walking and pain. On her last day, she was given shots in the emergency room and finished her final shift. Claimant

¹These other injuries resulted in claims under the Act; neither were found to have resulted in any disability to claimant.

testified that she saw Byers several times in June 2004. Byers ordered physical therapy, electrical stimulation, heat, and massage. He ordered an MRI on June 17, 2004. He eventually referred her to Dr. Pineda. Pineda ordered a spinal injection.

¶ 6 On July 30, 2004, claimant saw Dr. Russell. He examined claimant's MRI and noted a bulging disc at the L4-L5 level. He ordered a lumbar myelogram, which revealed degenerative changes at the L5-S1 level, a central bulge, and moderate stenosis.

¶ 7 In September 2004, Dr. Robson examined claimant on behalf of respondent. Robson recommended surgery, and claimant continued to treat with him. Robson ordered another MRI, which showed a herniated disc. On August 9, 2005, Robson performed a laminectomy and fusion at the L4-L5 and L5-S1 regions. In October 2007, he performed a second procedure where a metal cage was placed over claimant's spine. Robson imposed restrictions of no lifting over 15 pounds; no repetitive twisting, stooping, and bending; and frequent position changes. In the course of treating with Robson, claimant received two "SI" injections, including one after the second surgery. Robson discharged claimant from his care on May 6, 2008.

¶ 8 Following her release from Robson's care, claimant performed two job searches. She stated she could not seek employment as a nurse due to her lifting restriction. Claimant testified that she had been a registered nurse since 1988 and an L.P.N. since 1981. She had worked in a number of towns. One position she had held was assistant director of nursing at a nursing home.

¶ 9 After her second surgery, she sent respondent a copy of her work restrictions. Respondent never offered her any modified duty. She allowed her medical license to lapse while she was undergoing care for her back because she did not know if she would be able to return to work. Respondent terminated her, citing the lack of a valid nursing license. Claimant went to Springfield, paid the applicable fees, and got her license reinstated as of June 26, 2008.

¶ 10 Claimant testified that she first engaged in a job search between June 2008 and September 2008. She applied to places that were advertising that they were hiring, including “a couple of nursing homes.” In February 2009, claimant began looking for work again. She expanded the geographic region in which she was looking for work and made personal contact rather than simply making telephone calls. She rechecked some of the nursing positions for which she had previously applied. Prior to conducting this search, claimant had met with Liala Slaise, a certified rehabilitation counselor. Slaise told claimant that she was not employable. Claimant explained that she proceeded with the search in spite of Slaise’s opinion as claimant “felt the need to prove [she] could be independent.”

¶ 11 Subsequently, claimant moved to Mayflower, Arkansas. Claimant had family, friends, and a fiancée there. She had fallen several times, and her family was concerned about her welfare. She did not find employment there. She goes to a fitness center one to three times per week, where she engages in aqua-therapy, which Robson recommended. Claimant testified that she does housework, but must accommodate her condition. For example, she alternates between sitting and standing when cooking. Claimant has difficulty shaving her legs and sometimes goes “with the European look,” which she considers “kind of gnarly.” She cannot drive for more than 10 or 15 minutes without stopping. She sometimes uses a cane to walk. Sleeping is difficult. Claimant currently takes Tegretol, Trazodone, Vicodin, and Soma, which were prescribed by Byers. Claimant testified that she had an appointment scheduled with Byers for the month following the arbitration hearing.

¶ 12 Claimant testified that she engages in various hobbies. She uses a computer recreationally, but has no training that would allow her to use programs like Microsoft Word or Excel. When asked whether she could perform a sedentary management position in the nursing field, she answered that she thought she “would be able to do pretty good other than the fact that *** the meds would

probably cloud a lot of the judgment.” Claimant stated that she can only sit for 20 minutes and stand for up to 20 minutes, but sometimes less.

¶ 13 During cross-examination, claimant acknowledged that in one of the positions she had previously held, she used a computer to chart drugs. She stated that she conducted a job search in 2008 and one in 2009; however, she also “continue[d] to keep [her] eyes open for stuff in the papers.” Claimant testified that her log of her first job search did not contain contacts with two hospitals because, at the time she generated the log, she had picked up applications from them but had not turned them in. Claimant agreed that a majority of the contacts she made were with employers that were not in the healthcare field. She currently maintains her Illinois nursing license, and she plans to seek reciprocity in Arkansas. Renewing a nursing license simply requires the payment of a fee. Claimant had served in the Army.

¶ 14 Claimant stated that she met with Slaise on October 13, 2008. She also spoke with her by telephone on another occasion and provided her with written material and releases allowing Slaise to gather further information. Claimant could not recall whether Slaise conducted any vocational testing. During redirect, claimant explained that the main reason that she cannot find a job is that employers are not able to accommodate her restrictions. She also noted that transportation was an issue if she was required to travel a significant distance and that her medications sometimes affect her ability to think. Claimant stated that she did not enjoy being out of work.

¶ 15 Claimant also submitted the evidence deposition of Dr. Robson, respondent’s independent medical examiner and claimant’s treating physician. Robson testified that he is an orthopedic surgeon. He first examined claimant on September 14, 2004, at respondent’s request. Claimant told him that she was helping transfer a patient from a commode to a bed and she twisted her back. As a result, she developed low-back pain, which radiated down her left leg. Robson diagnosed a large

herniation at the L4-L5 level. The herniation appeared on the results of an earlier MRI and a CT-myelogram. Robson ordered a new MRI to see if there had been any changes. The second MRI showed the same herniation. Robson recommended surgery (a fusion), which was performed on August 9, 2005.

¶ 16 Initially, the surgery appeared successful, and claimant experienced some symptomatic relief. However, the fusion failed to “mature.” Robson recommended additional surgeries. In early October of 2007, claimant underwent two procedures within “a day or two” to repair the fusion. These procedures were successful, and Robson discharged claimant from his care on May 6, 2008, believing she had “maxed out her recovery.” He imposed permanent restrictions of a 15 pound lifting limit; no repetitive bending, twisting, stooping, or being in “awkward positions”; and brief position changes every 20 minutes. Robson explained the basis for these restrictions in the following manner:

“Well, initially, she had a pretty significant injury to her spine. She had three surgical procedures which change the tissue[,] and the muscles are not as good. The fact that she has a fusion puts stress at the adjacent levels to the spine. I’m trying to protect [from] anything happening in the future at L3-4, so the combination of all those things led me to place her on light duty permanent restrictions.”

He also explained that claimant would “have her ups and downs, have her good days and bad days so to speak.” Robson opined that claimant’s injury was causally related to her employment with respondent and that the treatment he provided was reasonable and necessary.

¶ 17 During cross-examination, Robson agreed that he had not seen or prescribed medication for claimant since May 6, 2008. Robson stated that he had prescribed pain medicine for claimant until 2005 and that it was possible that another doctor prescribed pain medicine thereafter. He clarified

that the restrictions he placed on claimant did not preclude her from occasionally twisting, bending, or stooping, so long as she did not exceed the 15-pound-lifting limit.

¶ 18 Slaise—a vocational rehabilitation counselor—also testified via evidence deposition. Slaise met with claimant on October 13, 2008, and performed a vocational assessment. She reviewed claimant’s work restrictions. Slaise placed claimant at the sedentary to light work-demand level. Conversely, the nursing jobs claimant had performed fell into the very heavy level, as they required lifting people, which meant lifting over 100 pounds. Thus, Slaise continued, claimant is not capable of returning to her former field of work. Slaise reviewed claimant’s work history to determine whether claimant had any skills that would be transferable to another job. She considered whether “telephonic nurse case manager” would be an appropriate position for claimant, but believed claimant’s inability to sit for an extended period would prevent claimant from performing such work. Slaise opined that claimant was not employable. In addition to claimant’s physical limitations, Slaise cited claimant’s lack of computer skills as part of the basis for her opinion.

¶ 19 During cross-examination, Slaise acknowledged that she had not met with claimant since she performed the vocational assessment and has not received any additional information about claimant. Slaise testified that she had not been authorized to perform any vocational rehabilitation services with claimant beyond the assessment. Slaise agreed that claimant had work experience in which she had acted as a nursing supervisor. Slaise’s report indicates that claimant engages in recreational gardening. Slaise stated that claimant would be able to be trained to perform computer work, except that her need to change positions frequently would limit her ability to take classes.

¶ 20 Respondent submitted three labor market surveys that were performed by Tracy Peterlin, another vocational counselor. Peterlin never met with claimant and did not testify or give a deposition in this case. She determined that the physical restrictions imposed upon claimant by

Robson placed claimant at the “sedentary to light physical demand level.” Peterlin recounted claimant’s education and employment history. The surveys state that claimant resided in Litchfield, Illinois, and that they use Springfield as the “primary search point.”

¶ 21 In the first survey, which was performed on June 24, 2008, Peterlin concluded work was available for claimant in which she could earn \$8 to \$16 per hour. Peterlin identified 35 potential employers, including respondent, who was hiring for a secretarial position. Two of the positions state that lifting requirements were not specified, raising the question of whether they actually were within claimant’s restrictions (one was a “patient care technician” and the other was a job in a parts department that involved “pulling parts”). The vast majority of these positions were located in Springfield or the St. Louis area and thus would have required a substantial commute. Peterlin stated that claimant “will most likely have to travel out of Litchfield, Illinois, in order to obtain employment.” The survey does not mention the difficulties claimant has operating a car. This report did not include nursing positions as claimant’s nursing license had not been reinstated as of the date of the survey.

¶ 22 On July 30, 2008, Peterlin conducted a second survey after claimant’s nursing license was reinstated. Here, Peterlin included nursing jobs and opined that claimant could earn from \$28,000 to \$55,000 per year. Most of the jobs identified in this survey required a substantial commute. A third survey was conducted on August 26, 2009. Peterlin found jobs she deemed appropriate for claimant that paid from \$10 to \$39 per hour. Again, most required substantial travel.

¶ 23 The arbitrator found that claimant suffered an injury that was causally related to her employment (this is not in dispute before this court). She concluded that claimant was permanently totally disabled and awarded claimant \$421.04 per week for life. She also awarded TTD in the same amount for the period running from June 1, 2004, to October 28, 2008 (229 3/7

weeks). The arbitrator did not explain how she arrived at these dates. In awarding claimant PTD, the arbitrator expressly found that Slaises's testimony was entitled to greater weight than Peterlin's labor market surveys. The arbitrator also credited claimant's "description of her limitations and continuing use of multiple pain medicines," thus implicitly finding claimant credible. She also cited the restrictions imposed by Robson.

¶ 24 A majority of the Commission affirmed, adopting the decision of the arbitrator. One commissioner dissented. She appeared to find claimant's testimony to lack credibility regarding her ongoing need for medication. Though she acknowledged claimant could not perform the work she formerly did, the dissenting commissioner found that claimant was still a "qualified and able nurse." Moreover, despite that fact that claimant engaged in two job searches in which she contacted nearly 80 employers, the dissenting commissioner characterized claimant's efforts as "half hearted" and stated that claimant "looked for a few jobs." The trial court confirmed the Commission, and this appeal followed.

¶ 25

III. ANALYSIS

¶ 26 On appeal, respondent attacks both the Commission's award of TTD and PTD. Generally, both of these issues present questions of fact. *Ming Auto Body/Ming of Decatur, Inc. v. Industrial Comm'n*, 387 Ill. App. 3d 244, 256-57 (2008) (TTD); *Meadows v. Industrial Comm'n*, 262 Ill. App. 3d 650, 653 (1994) (PTD). Thus, we will reverse the Commission only if its decision is contrary to the manifest weight of the evidence. *Orsini v. Industrial Comm'n*, 117 Ill. 2d 38, 44 (1987). A decision is contrary to the manifest weight of the evidence only if an opposite conclusion is clearly apparent. *Caterpillar, Inc. v. Industrial Comm'n*, 228 Ill. App. 3d 288, 291 (1992). As the trier of fact, it is primarily the role of the Commission to weigh evidence, assess the credibility of witnesses, and resolve conflicts in the record. *Shafer v. Illinois Workers' Compensation Comm'n*, 2011 IL App

(4th) 100505WC, ¶ 35. Moreover, due to its expertise in the area of workers' compensation law, we owe great deference to the Commission's resolution of such issues. *Insulated Panel Co. v. Industrial Comm'n*, 318 Ill. App. 3d 100, 105 (2001); *Presson v. Industrial Comm'n*, 200 Ill. App. 3d 876, 881 (1990). When the facts are undisputed and susceptible of but a single inference, *de novo* review is appropriate (*Farris v. Industrial Comm'n*, 357 Ill. App. 3d 525, 527 (2005)); however, that is not the case here. With these standards in mind, we now turn to the issues raised by the parties.

¶ 27

A. Temporary Total Disability

¶ 28 Respondent first attacks the Commission's TTD award. Generally, a claimant is entitled to TTD from the date of an injury until the time he or she reaches maximum medical improvement (MMI). *Freeman United Coal Mining Co. v. Industrial Comm'n*, 318 Ill. App. 3d 170, 177 (2000). A claimant reaches MMI when his or her condition stabilizes, that is, the condition has recovered as far as the character of the injury allows. *Id.* This presents a question of fact. *Id.* at 175. After a claimant's condition has stabilized, the claimant may be entitled to compensation for permanent total or permanent partial disability. *Walker v. Industrial Comm'n*, 345 Ill. App. 3d 1084, 1088 (2004).

¶ 29 Respondent contends that the Commission erred in determining claimant had reached maximum medical improvement on October 28, 2008 (respondent does not contest the date on which the TTD period began). It notes that the Commission did not explain the basis for this finding. Respondent contends that it is clearly apparent (*Caterpillar, Inc.*, 228 Ill. App. 3d at 291) that claimant's condition stabilized on May 6, 2008. Respondent points out that this was the last date on which Robson treated claimant. Robson opined that, at that point, claimant had "maxed out her recovery." Robson testified that "x-rays showed a solid fusion, that there was nothing else to offer her surgically[,] and [that] she had exhausted all the rehabilitation." This was also the date on which

Robson imposed the work restriction to which claimant is still subject.

¶ 30 We agree with respondent. Quite simply, the only evidence in the record regarding when claimant's condition stabilized is Robson's testimony. We recognize that Slaise did not complete her evaluation of claimant until October. However, we do not find this fact relevant to this issue, as a claimant is not entitled to TTD after his or her "*physical* condition stabilizes." (Emphasis added.) *Absolute Cleaning/SVMBL v. Illinois Workers' Compensation Comm'n*, 409 Ill. App. 3d 463, 471 (2011). Therefore, the manifest weight to the evidence indicates claimant's condition stabilized on May 6, 2008. At oral argument, respondent acknowledged that claimant's medical condition did not change between May 6, 2008 and October 28, 2008. Obviously, then, if claimant was permanently and totally disabled on October 28, she was also permanently and totally disabled on May 6. Moreover, we note that the Commission's award for TTD and PTD were the same on a weekly basis.

¶ 31 Accordingly, we modify the Commission's decision to reflect that claimant reached MMI on May 6, 2008 and that claimant was entitled to PTD on May 7, 2008. As these award are compensated at the same weekly rate, this results in no change to claimant's ultimate award.

¶ 32 B. Permanent Total Disability

¶ 33 Respondent next challenges the Commission's award of PTD. An employee need not be reduced to complete physical incapacity to be entitled to PTD (*Ceco Corp. v. Industrial Comm'n*, 95 Ill. 2d 278, 286-87 (1983)); rather, a PTD award is proper when the employee can make no contribution to industry sufficient to earn a wage (*Westin Hotel v. Industrial Comm'n*, 372 Ill. App. 3d 527, 544 (2007)). When a claimant's disability is limited and it is not obvious that the claimant is not employable, the claimant may still demonstrate entitlement to PTD by proving he or she fits within the "odd-lot" category. *Id.* The odd-lot category consists of those who "though not altogether

incapacitated for work, [are] so handicapped that [they] will not be employed regularly in any well-known branch of the labor market.” *Valley Mould & Iron Co. v. Industrial Comm’n*, 84 Ill. 2d 538, 547 (1981), citing 2 A. Larson, *Workmen's Compensation* sec. 57.51, at 10-164.24 (1980). A claimant generally fulfills this burden by showing (1) a diligent but unsuccessful search for employment or (2) that the claimant will not be regularly employed in a well-known branch of the labor force due to his or her experience, age, training, and skills. *Alano v. Industrial Comm’n*, 282 Ill. App. 3d 531, 534-35 (1996). If a claimant makes this showing, the burden shifts to the employer to show that suitable work is available to the claimant. *Westin Hotel*, 372 Ill. App. 3d at 544. This issue presents a question of fact. *Professional Transportation, Inc. v. Illinois Workers’ Compensation Comm’n*, 2012 IL App (3d) 100783WC, ¶ 33.

¶ 34 The Commission (adopting the decision of the arbitrator) did not expressly mention the odd-lot theory; however, both parties treat the Commission’s decision as if it was applied. Our reading of the decision is consistent with that of the parties. Indeed, the Commission relied on evidence that was relevant to both prongs of the odd-lot analysis. See *Alano*, 282 Ill. App. 3d at 534-35.

¶ 35 First, the Commission noted that claimant “undertook two unsuccessful self-directed job searches.” The Commission noted that claimant had contacted a total of 78 employers and that 46 of the contacts she made were in-person. Given the number of contacts and the fact that a majority of them were in person, the Commission could conclude that claimant had engaged in a diligent job search. See *City of Green Rock v. Industrial Comm’n*, 255 Ill. App. 3d 895, 902 (1993) (holding that how extensive a job search must be to qualify as diligent is a question of fact and finding that the claimant engaged in a diligent job search where “he placed a number of applications” and there was no evidence that the claimant “disregarded potential employment opportunities or refused work which was offered to him” despite fact that the claimant did not seek work in the 8 months preceding

the arbitration hearing.); see also *Waldorf Corp. v. Industrial Comm'n*, 303 Ill. App. 3d 477, 484 (1999). At the very least, we cannot say that an opposite conclusion—*i.e.*, that claimant's job search was not diligent—is clearly apparent.

¶ 36 Respondent criticizes claimant's job search, characterizing it as intermittent, "sporadic and short lived." Respondent's argument is really an invitation to us to re-weigh the evidence and substitute our judgment for that of the Commission. This we cannot do, for "[i]t is not the prerogative of the reviewing court to reweigh the evidence and substitute its judgment for that of the Commission."). *Setzekorn v. Industrial Comm'n*, 353 Ill. App. 3d 1049, 1055 (2004). Respondent also complains that claimant made only a small number of contacts in the healthcare field. However, there is nothing in the record to indicate that there were other healthcare-related jobs available in the geographic area in which claimant resided that claimant did not pursue. Indeed, the report of respondent's expert, Peterlin, indicated that most jobs in the healthcare industry were a substantial distance from claimant's home. Respondent asserts that "[g]eography is not a negative factor," pointing out that claimant had moved several times in the past; however, it cites nothing to support the notion that the Commission could not have considered the geographic location of available employment. Respondent properly notes that a job search should not generally be judged by the number of contacts alone, but also by the quality of the contacts and the duration of the search. Aside from the fact that only a small number of the jobs were in the medical field, respondent does not explain what was wrong with the quality of claimant's contacts (we note a majority were in-person). In short, we reject respondent's argument on this point.

¶ 37 Having concluded that claimant showed that she had engaged in a diligent job search is, in itself, enough to shift to respondent the burden of establishing that suitable employment existed for claimant. *Westin Hotel*, 372 Ill. App. 3d at 544. Moreover, claimant has also presented evidence

that, due to her experience, age, training, and skills, she will not be regularly employed in a well-known branch of the labor force. *Alano*, 282 Ill. App. 3d at 534-35.

¶ 38 To this end, claimant introduced the testimony of Slaise. Respondent presented countervailing evidence in the form of the three labor market surveys produced by Peterlin. Generally, it is for the Commission, as trier of fact, to resolve such conflicts in the evidence. *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 206 (2003). Indeed, the Commission expressly found that Slaise's "opinion, formulated after review of the medical records and [an] interview with [claimant], is entitled to greater weight than any opinions which may be inferred [*sic*] from the Labor Market Surveys." The Commission specifically noted that Peterlin had no contact with claimant. The Commission also noted the work-restrictions imposed by Robson in making its decision. Respondent argues that the Commission should have preferred Peterlin's surveys over Slaise's testimony. It points out that "both worked with the same assumptions regarding the claimant's physical limitations." It appears that respondent misconstrues its burden on review. For us to find a decision of the Commission to be against the manifest weight of the evidence, the appellant (here, respondent) bears the burden of showing an opposite conclusion is clearly apparent. *Lenny Szarek, Inc. v. Illinois Workers' Compensation Comm'n*, 396 Ill. App. 3d 597, 606 (2009) ("As the appellant, respondent bears the burden of demonstrating reversible error on appeal."); *Caterpillar, Inc.*, 228 Ill. App. 3d at 291 (holding that a decision is contrary to the manifest weight of the evidence only if an opposite conclusion is clearly apparent). Pointing out that both experts used the same information gives us no reason to prefer either of them, much less find the Commission's decision contrary to the manifest weight of the evidence. Respondent also points out that, though Slaise met with claimant, she conducted no vocational testing. While it certainly would have bolstered Slaise's opinion had she done so, the fact that she did not does not render her opinion so flawed that the

Commission was required to reject it. In short, respondent gives us no persuasive reason to conclude that the Commission erred here.

¶ 39 Thus, the burden of establishing that suitable employment existed for claimant shifted to respondent. *Westin Hotel*, 372 Ill. App. 3d at 544. To meet this burden, respondent again points to Peterlin's surveys. We have already discussed these surveys and contrasted them with Slaise's testimony. We find them no more compelling in this context. Thus, we cannot conclude that the Commission's decision is against the manifest weight of the evidence on this basis either.

¶ 40 Finally, respondent complains that "the Commission improperly factored in subjective complaints that had no medical substantiation." In actuality, respondent is complaining about the Commission's evaluation of claimant's credibility. Evaluating credibility is primarily a matter for the Commission. *Shafer*, 2011 IL App (4th) 100505WC, ¶ 35. Respondent complains that claimant did not produce additional evidence to corroborate her testimony, but it cites nothing to support the notion that the Commission is required to reject sworn testimony when it is not corroborated. Moreover, we note that, in any event, the Commission's decision did not rest solely on claimant's testimony, as is shown by the following passage from the arbitrator's decision that the Commission adopted:

"Considering [claimant's] transferrable skills, her past relevant work experience, her current medical restrictions, her description of her limitations and continuing use of multiple pain medications, the Arbitrator concludes that [claimant] is totally and permanently disabled."

Hence, we do not find this contention persuasive. Having rejected respondent's final argument, we hold that the Commission did not err in awarding claimant PTD benefits.

¶ 41

IV. CONCLUSION

¶ 42 In light of the foregoing, we modify the Commission's decision to reflect that claimant reached MMI on May 6, 2008 and that claimant was entitled to PTD on May 7, 2008. The balance of the Commission's decision is not contrary to the manifest weight of the evidence. The order of the circuit court of Macoupin County confirming the decision of the Commission is affirmed as modified.

¶ 43 Affirmed as modified.