

2014 IL App (3d) 130309WC-U  
No. 3-13-0309WC  
Order filed June 19, 2014

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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

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HARRAH'S CASINO,	)	Appeal from the
	)	Circuit Court
Appellant,	)	of Will County
	)	
v.	)	No. 12-MR-1972
	)	
ILLINOIS WORKERS' COMPENSATION	)	Honorable
COMMISSION <i>et al.</i> (Toni Ferguson,	)	Bobbi N. Petrungaro,
Appellee).	)	Judge, presiding.

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

**ORDER**

¶ 1 *Held:* The employer has forfeited its arguments on appeal by failing to cite any authority in support of its arguments. Nonetheless, the Commission's findings with respect to causation, notice, medical expenses, PPD benefits, and TTD benefits are not against the manifest weight of the evidence.

¶ 2 The claimant, Toni Ferguson, was employed as a dealer at a variety of gaming tables for the employer at its casino. The claimant subsequently developed conditions of ill-being in her neck and upper and lower back. She sought benefits under the Illinois Workers' Compensation Act (the Act), 820 ILCS 305/1 *et seq.* (West 2012), claiming that she sustained a repetitive trauma accident that was causally connected to her workplace duties.

¶ 3 At the hearing before the arbitrator, the disputed issues included whether the claimant sustained a compensable injury, whether she gave timely notice of the accident, whether her medical services were reasonable and necessary, whether she was entitled to temporary total disability (TTD) benefits, and the nature and extent of her injury. The arbitrator ruled in favor of the claimant on all of the disputed issues, finding that the claimant sustained an accident that arose out of and in the course of her employment and that she gave timely notice of her accident. The arbitrator awarded the claimant TTD and permanent partial disability (PPD) benefits and medical expenses. The arbitrator made detailed factual findings in a 24-page rider to his decision.

¶ 4 The employer appealed to the Workers' Compensation Commission (the Commission), and the Commission unanimously affirmed and adopted the arbitrator's decision. On appeal to the circuit court, the court confirmed the Commission's decision, holding that the Commission's decision with respect to causation and notice and its awards for medical expenses, TTD benefits, and PPD benefits were not against the manifest weight of the evidence. The employer now appeals the circuit court's judgment. We affirm.

¶ 5

## BACKGROUND

¶ 6 The claimant began working for the employer in December 1993 as a tracking host. She began working as a dealer/change slot host at the employer's casino in January 1995 and a fulltime dealer in 1997. Prior to her employment at the employer's casino, she never had any problems with her upper or lower back. Her employment duties consisted primarily of dealing blackjack, but she also worked at the roulette tables, craps tables, and other card games. She worked 5 days per week, eight hours per day. She took a 20-minute break from her job duties every hour and 20 minutes.

¶ 7 Her job duties required repetitive twisting and moving back and forth while standing at a gaming table. The device that blackjack dealers use to deal cards is known as a "shoe," and the claimant testified that the employer's shoes were commonly defective and required forceful exertion to extract the cards. Other gaming tables required her to bend over the table, twisting her neck, and reaching out with her arms. At her peak, the claimant could deal 800 hands of blackjack per hour. She began experiencing back, shoulder, and spine pain in 2007. In 2007 and early 2008, her ability diminished to approximately 600 hands per hour, and then down to 420. She had to stop frequently to rub her back and shoulders due to back and neck pain. She testified that she experienced pain that would start in the back of her neck and travel up, producing excruciating headaches. She took Advil to alleviate the pain. The blackjack table caused more neck and shoulder pain, and the craps table caused more low back pain.

¶ 8 She discussed her neck and back issues with two of her supervisors in 2007 and in 2008, and the supervisors would move her to a more comfortable location. Her performance kept diminishing, however, and she could not keep up with other dealers.

¶ 9 May 21, 2008, was the last day that the claimant worked. On that day, she saw her treating physician, Dr. Donald Higgins, with complaints of vertigo.

¶ 10 The claimant also saw Dr. Christopher Simon on June 11, 2008, with complaints of vertigo. The claimant told the doctor that she had an episode of vertigo in 1999 that lasted three months before resolving on its own, and the symptom began again in May 2008. In August 2008, Dr. Simon noted that the claimant was suffering from daily migraine headaches.

¶ 11 On October 22, 2008, Dr. Simon noted that the claimant continued "to have a nearly chronic daily, low-grade, aching headache over the front of her head and neck." He ordered an EMG which revealed "moderately severe chronic C6 radiculopathy on top of a chronic moderately severe L4 radiculopathy involving the right leg." A subsequent MRI scan of the cervical spine showed a disc bulge at C5-C6. On November 26, 2008, Dr. Simon concluded that the claimant had cervicalgia related to an underlying disc disease with radiculopathy. In addition, he believed that the claimant had lumbar back pain with secondary radiculopathies into the legs. At that point, the claimant's treatments included physical therapy and medications.

¶ 12 On November 19, 2008, the claimant treated with a pain specialist, Dr. Suleiman Salman, upon a referral from Dr. Simon. She reported complaints of neck, shoulder, right arm, and low back pain. The back pain radiated bilaterally into her lower

extremities. Dr. Salman noted in his records that the claimant worked as a casino dealer until May 22, 2008, and that her neck, shoulder, and right arm pain was continuous in nature and "exacerbated with activities involving the use of her upper extremities." He noted that the claimant's back and leg pain were exacerbated when going from a seated to standing position, bending forward while standing, and going down stairs. He noted the claimant's history of chronic daily headaches and vertigo that were treated by Dr. Simon.

¶ 13 Dr. Salman's impression was that the claimant had neck pain radiating to the bilateral shoulders and right upper extremity and low back pain radiating to the bilateral extremities. He noted the radiographic evidence of degenerative disc disease with a C5-6 bulge and lumbar disc disease and noted the EMG evidence of chronic C6 radiculopathy involving the right arm and L4 radiculopathy involving the right leg.

¶ 14 On November 19, 2008, Dr. Salman administered a fluoroscopic needle localization into the claimant's neck and performed a C6-7 epidural steroid injection. Dr. Salman's notes from November 19, 2008, do not include any opinions concerning whether the claimant's conditions were related to her work activities as a casino dealer for the employer. During the arbitration hearing, however, the claimant testified that during this office visit, she asked Dr. Salman whether her conditions were work-related, and he stated that they were. Based on this testimony, the Commission found that the manifestation date of the claimant's repetitive trauma accident was November 19, 2008. The arbitrator's decision, adopted by the Commission, further added that "it is clear that [the claimant's] job duties were discussed that day."

¶ 15 After her November 19, 2008, visit with Dr. Salman, the claimant called the employer and spoke with Lisa Thompson, who was in charge of medical leaves of absence, and Lee Smela, who handled workers' compensation claims. In addition, the claimant testified that around this time she also telephoned another workers' compensation representative and advised that her condition was work related. The claimant filed her application for adjustment of claim on December 31, 2008.

¶ 16 The claimant began a course of physical therapy in November 2008, and Dr. Simon referred her to Dr. Thomas Hurley. Dr. Hurley examined the claimant on January 27, 2009, and found left-sided lumbar radiculitis, left sided cervical radiculitis, ulnar nerve compression neuropathy of the left hand, lumbar degenerative disc disease, and cervical degenerative disc disease.

¶ 17 The claimant saw Dr. Anthony Rivera who found that the claimant had dysesthesia to touch and pressure over C6 left, dysesthesia over C7 left, dysesthesia over C8 left, dysesthesia over L2 left, dysesthesia over L3 left, intact over the right cervical nerve root, intact over the right lumbo-sacral nerve roots. In addition, he found that she had an antalgic gait favoring the left and that her reflexes were diminished in the upper and lower extremities. The claimant also had a tinel's positive at the left cubital tunnel area.

¶ 18 At her attorney's request, the claimant saw Dr. Jeffery Coe on February 17, 2009. He opined that there was a causal connection between the claimant's repetitive strain injuries suffered at work and her cervical and lumbar conditions. He believed that she required additional treatment including pain control and trigger injections. He restricted

her from repetitive bending or twisting at the neck or lower back and from prolonged standing, particularly in the forward flexed position. The claimant returned to Dr. Coe again on December 29, 2009, at which time he again opined that the claimant's condition was related to her employment, and he recommended a follow up with a pain management specialist.

¶ 19 On May 13, 2009, the claimant followed up with Dr. Rivera who diagnosed cervical and lumbar radiculitis and degenerative disc disease, as well as an ulnar nerve compression neuropathy of the left hand.

¶ 20 On June 30, 2009, at the request of the employer, the claimant saw a spine surgeon, Dr. Howard An. Dr. An noted that the claimant had pre-existing cervical disc degeneration, but her work activities aggravated the condition. Dr. An also imposed work restrictions that precluded the defendant from performing the duties of a dealer at the employer's casino, including avoidance of frequent twisting or bending. Dr. An opined, however, that there was no "direct relationship" between the claimant's complaints of vertigo and headaches and her cervical condition.

¶ 21 On February 2, 2010, the claimant returned to Dr. Rivera who noted that it appeared that the claimant's "upper extremities complaints were secondary to her occupation at the casino." He believed that the claimant's upper extremity conditions appeared to be "a cumulative trauma syndrome issue," and "that the lumbar back pain with radiation to the left leg may have been secondary to her occupation, but this is not as certain as the upper extremity issues, which she used repetitively at her job." Dr. Rivera restricted the claimant from bending or lifting greater than 20 lbs.

¶ 22 A June 9, 2010, functional capacity evaluation found that the claimant could work light duty.

¶ 23 When Dr. Rivera moved out of the area, the claimant began treating with Dr. Zakin Anwar of the same medical group on August 2, 2010. Dr. Anwar's impression was that the claimant suffered a work-related injury in May 2008 and was then suffering from chronic neck, shoulder and lower back pain with cervical and lumbar conditions.

¶ 24 The employer submitted surveillance video of the claimant that was taken during events in May 2009 and September 2011. The arbitrator viewed the surveillance video and found in his decision adopted by the Commission that the video confirmed that the claimant's activities were sedentary in nature. The arbitrator noted that the video recording showed an incident on May 5, 2009, where someone lifted and carried a box for the claimant. The arbitrator noted that the greatest activity that the video showed was the claimant holding a newborn baby. The arbitrator further noted that the video showed the claimant at a football game, where she alternated between sitting and standing, which the claimant testified was required because of her neck pain.

¶ 25 In November 2011, the employer's IME doctor, Dr. An, viewed the surveillance video. He also reviewed records from Drs. Coe and Rivera and the results of the June 2010 functional capacity evaluation. After reviewing these materials, he reported that he continued to believe that the claimant's "chronic cervical and lumbar pain conditions [were] a pre-existing degenerative condition with aggravation by work activities." He believed that the video showed that the claimant's movements were all in a slow pace and that there were no instances of frequent bending, twisting, or heavy lifting. He believed



that the claimant appeared in the video to be stiff and guarded at times. He stated in his report that he did not believe that the claimant's vertigo and headaches were directly related to her cervical condition and that many patients have other causes associated with dizziness and headaches.

¶ 26 Dr. Jeffery Coe testified at the arbitration hearing by way of an evidence deposition. Dr. Coe opined that the claimant had degenerative disc disease and degenerative arthritis in both her cervical and lumbar spine and that there was a causal connection between her work as a dealer and her conditions of ill-being. He testified that he believed that the results of the functional capacity evaluation that placed the claimant at the light physical demand level were consistent with Dr. An's restrictions.

¶ 27 With respect to the claimant's initial complaints of dizziness in May 2008, Dr. Coe explained that dizziness is a "reported symptom that may be associated with cervical radiculopathy and cervical myofascial pain." He explained that people with neck pain tend to move their neck abnormally, and when they hold their neck stiffly, they "can have problems with balance and dizziness." Dr. Coe noted that the claimant's medical records and treatments from May 2008 are consistent with his opinion that the claimant's job activities aggravated her underlying condition of degenerative arthritis. He noted that her treatment records showed that her initial complaint was dizziness, but by October 2008, she was complaining of pain. Dr. Coe opined that this record of her treatment was consistent with the condition developing over time, noting that the claimant worked at her job as a dealer for 15 years.

¶ 28 At the request of the employer, the claimant was also examined by Dr. Lawrence Lieber, a sports medicine orthopedist, who opined that the claimant's cervical and lumbar spine conditions were unrelated to her work activities. The arbitrator, however, discredited Dr. Lieber's opinions with respect to the lumbar and cervical spine conditions, noting that "Dr. Lieber's opinions and findings are diametrically opposed to every other treating or examining doctor who opined on causal connection or the cause of [the claimant]'s conditions, including that of Dr. An, [the employer]'s other Section 12 Examiner." With respect to the claimant's initial complaints of vertigo and headaches, the arbitrator also noted that Dr. Lieber agreed that the claimant's vertigo and headaches "certainly could be related to that of the degenerative cervical disc disease that was neither aggravated nor caused by the work injury."

¶ 29 At the conclusion of the arbitration hearing, the arbitrator found that the claimant suffered from a compensable accident and that her conditions of ill-being were causally related to the accident. In making these findings, the arbitrator noted that "Drs. Rivera, Anwar, Simon, Coe and An gave affirmative opinions on causal connection." In addition, the claimant testified to "significant and highly repetitive activities involving standing with her neck and back forward flexed, and constantly twisting her neck to perform her duties as a dealer, as well as constantly putting force on the table to remove cards from a defective shoe, which is clearly a competent cause to initiate, as Dr. Coe described, or at least aggravate degenerative disc disease and degenerative arthritis."

¶ 30 The arbitrator found the claimant credible with respect to her work duties and stated that "[t]he fact that she worked 15 years for respondent exclusively demonstrates

that her spine ultimately gave way under the stresses in performing the usual tasks of her work, and such is compensable \*\*\*." The arbitrator found that the claimant's vertigo, dizziness, and cervical and lumbar conditions were conditions that were causally related to her work duties, and that she timely gave notice of her accident two days after the November 19, 2009, manifestation date. With respect to notice of accident, the arbitrator also found that the claimant filed her application on December 31, 2008, which was within 45 days of the date of accident. The arbitrator awarded the claimant maintenance, TTD benefits, and medical expenses.

¶ 31 With respect to the nature and extent of the claimant's injury, the arbitrator noted that "[w]ith the exception of [the employer]'s Section 12 report of Dr. Lieber, all the medical evidence is that [the claimant] suffered at the least aggravated degenerative disc disease and degenerative arthritis of her cervical and lumbar spines with the cervical being more severe and debilitating." The arbitrator found that the functional capacity test that limited the claimant to light level of work was "consistent with the opinions of Drs. Rivera, Anwar, Coe and An." The arbitrator found that the claimant's earning capacity is severely impaired with her cervical and lumbar conditions. The arbitrator, therefore, found that the claimant's injuries had caused the 50% loss of the person as a whole as provided in section 8(d)2 of the Act.

¶ 32 The Commission unanimously affirmed and adopted the arbitrator's decision, and the circuit court confirmed the Commission's decision. In confirming the Commission's decision with respect to causation, the circuit court noted that the Commission relied on the claimant's testimony concerning "her highly repetitive job duties" and cited "the

medical records and testimony of Dr. Coe, Dr. Rivera, Dr. An, Dr. Hurley, Dr. Anwar and Dr. Simon." In holding that the Commission's decision was supported by the evidence, the circuit court found it significant that the Commission rejected the opinion of Dr. Lieber. The court discussed the Commission's findings with respect to notice and its awards of medical expenses and TTD and PPD benefits and concluded that "[b]ased on all the evidence presented," the Commission's decision is not against the manifest weight of the evidence nor contrary to law.

¶ 33 The employer now appeals the circuit court's judgment that confirmed the Commission's decision.

¶ 34 DISCUSSION

¶ 35 In the present appeal, the employer raises several issues concerning findings made by the Commission, asking this court to reverse the findings as being against the manifest weight of the evidence. The employer's brief, however, does not include a single citation to any authority in support of this argument. The employer's brief does not even include a citation to any sections of the Act.

¶ 36 Illinois Supreme Court Rule 341(h)(7) requires the argument section of an appellant's brief to "contain the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on." Ill. S. Ct. R 341(h)(7) (eff. Feb. 6, 2013). The supreme court rules governing the content and format of briefs are mandatory. *Voris v. Voris*, 2011 IL App (1<sup>st</sup>) 103814, ¶ 8, 961 N.E.2d 475. "A failure to cite relevant authority violates Rule 341 and can cause a party to forfeit consideration of the issue." *Kic v. Bianucci*, 2011 IL App (1<sup>st</sup>) 100622, ¶ 23, 962 N.E.2d

1071. The Illinois Supreme Court recently emphasized that "a reviewing court is 'entitled to have issues clearly defined with pertinent authority cited and cohesive arguments presented.' " *Bartlow v. Costigan*, 2014 IL 115152, ¶ 52 (quoting *Velocity Investments, LLC v. Alston*, 397 Ill. App. 3d 296, 297, 922 N.E.2d 538 (2010)). Proper support for a claim of error requires more than just argument; it must be supported by authority. *People v. Hood*, 210 Ill. App. 3d 743, 746, 569 N.E.2d 228, 230 (1991).

¶ 37 As noted by the supreme court in *Kelley v. Kelley*, 317 Ill. 104, 107, 147 N.E. 659, 660 (1925), "[i]f the questions involved in a case are of sufficient importance to justify asking this court to decide them, they are worthy of the careful consideration of counsel presenting them." Appellate attorneys have the duty "to present to the court the authorities supporting their views, and to assist the court in reaching a correct conclusion." *Id.* The citation of authorities is as significant to attaining justice as is any other rule governing the filing and presentation of an appeal. *In re Estate of Kunz*, 7 Ill. App. 3d 760, 763, 288 N.E.2d 520, 523 (1972).

¶ 38 The employer's brief in the present case challenges five different findings by the Commission that were confirmed by the circuit court. The employer's brief, however, contains no citations to any authority in support of its contentions. The only case citation in the employer's brief is within the standard of review section. A citation to authority that sets out the standard of review does not fulfill Rule 341's requirement that the argument section include citation of the authorities relied on by the appellant.

¶ 39 Although we may overlook an appellant's failure to comply with the rules, we decline to do so in this case considering the number of issues raised by the employer and

the complete lack of a single citation of authority. *Ramos v. Kewanee Hospital*, 2013 IL App (3d) 120001, ¶ 37, 992 N.E.2d 103 ("[F]ailure to properly develop an argument and support it with citation to relevant authority results in forfeiture of that argument.").

¶ 40 Even if we were to consider the merits of the employer's appeal, it would not be successful because the record contains ample support for the Commission's findings.

¶ 41 Whether the claimant suffered from a compensable accident is a question of fact to be determined by the Commission. *National Freight Industries v. Illinois Workers' Compensation Comm'n*, 2013 IL App (5th) 120043WC, ¶ 26, 993 N.E.2d 473. The Commission's findings with respect to factual issues are reviewed under the manifest weight of the evidence standard. *Tower Automotive v. Illinois Workers' Compensation Comm'n*, 407 Ill. App. 3d 427, 434, 943 N.E.2d 153, 160 (2011). "For a finding of fact to be against the manifest weight of the evidence, an opposite conclusion must be clearly apparent from the record on appeal." *City of Springfield v. Illinois Workers' Compensation Comm'n*, 388 Ill. App. 3d 297, 315, 901 N.E.2d 1066, 1081 (2009).

¶ 42 The claimant maintained that she sustained injuries to her upper and lower back and her neck as a result of repetitive trauma caused by her work duties as a dealer at the employer's casino. In a repetitive trauma case, a claimant may recover if "the claimant can show that a bodily structure has eroded over time to the point of uselessness as a result of employment." *Butler Manufacturing Co. v. Industrial Comm'n*, 140 Ill. App. 3d 729, 733-34, 489 N.E.2d 374, 378 (1986). "In cases relying on the repetitive-trauma concept, the claimant generally relies on medical testimony establishing a causal

connection between the work performed and claimant's disability." *Williams v. Industrial Comm'n*, 244 Ill. App. 3d 204, 209, 614 N.E.2d 177, 180 (1993).

¶ 43 In the present case, the Commission considered medical testimony and records in finding a causal connection between the claimant's job duties as a dealer and her conditions of ill-being. The claimant's treating physicians and even one of the employer's own IME doctors opined that the work activities contributed to her disability.

¶ 44 When the parties present conflicting medical testimony, it is the Commission's role as the fact finder to determine what testimony is to be accepted. *Freeman United Coal Mining Co. v. Industrial Comm'n*, 263 Ill. App. 3d 478, 485, 636 N.E.2d 77, 82 (1994). We have frequently noted that the interpretation of medical testimony is particularly the function of the Commission. *Freeman United Coal Mining Co. v. Industrial Comm'n*, 286 Ill. App. 3d 1098, 1103, 677 N.E.2d 1005, 1008 (1997).

¶ 45 In the present case, nothing in the record establishes that the Commission's assessment of the conflicting medical opinions on the issue of causation was against the manifest weight of the evidence. The employer does not argue on appeal that no medical testimony supports the Commission's decision. Essentially, the employer's argument is that the Commission improperly gave weight to certain medical evidence when it should have given more weight to conflicting medical evidence. An appellate court's review of the Commission's decision does not involve a determination of which medical expert is more worthy of belief, but only involves the determination of whether or not there is proper medical evidence in the record sufficient to support the award. *Crane Co. v. Industrial Comm'n*, 32 Ill. 2d 348, 352-53, 205 N.E.2d 425, 427-28 (1965).

¶ 46 Likewise, the employer's challenges to the Commission's findings with respect to medical expenses, PPD benefits, and TTD benefits are not convincing because they are also based on the same arguments concerning the proper weight that should be given to conflicting medical testimony.

¶ 47 With respect to notice, the Commission found that November 19, 2008, was the date of accident. In repetitive trauma cases, the date of accident is the date on which the injury "manifests itself." *Peoria County Belwood Nursing Home v. Industrial Comm'n*, 115 Ill. 2d 524, 531, 505 N.E.2d 1026, 1029 (1987). The manifestation date is the date on which both the fact of the injury and the causal relationship of the injury to the claimant's employment would become plainly apparent to a reasonable person. *Id.* Section 6(c) of the Act requires the claimant to give notice of the accident "to the employer as soon as practicable, but not later than 45 days after the accident." 820 ILCS 305/6(c) (West 2010).

¶ 48 The Commission's finding with respect to the date of accident was not against the manifest weight of the evidence. The claimant first went to her primary treating physician and then to a neurologist with complaints of vertigo and headaches without knowing that the conditions were work related. An EMG scan revealed that the claimant had cervical and lumbar radiculopathies, and she was referred to Dr. Salman who saw her on November 19, 2008. Dr. Salman noted that the claimant worked as a casino dealer until May 22, 2008, and that she had neck pain, shoulder pain, and leg pain, with a history of headaches and vertigo. The claimant testified that she asked Dr. Salman if her condition could be work related, and he informed her that it was work related. The



Commission noted that while Dr. Salman's records do not "state affirmatively one way or the other, it is clear that her job duties were discussed that day." The Commission found that the claimant was credible.

¶ 49 The employer argues that the claimant's testimony about her conversation with Dr. Salman was inadmissible hearsay, but we note that the testimony of the out of court statement was admissible to show that the claimant had notice that her condition was work-related. *Kochan v. Owens-Corning Fiberglass Corp.*, 242 Ill. App. 3d 781, 806, 610 N.E.2d 683, 699 (1993) (an out-of-court statement that is offered to prove that the recipient had notice of the information contained within the statement is not hearsay). The Commission's finding with respect to date of accident is not against the manifest weight of the evidence.

¶ 50 The claimant filed her application within 45 days of November 19, 2008, which fulfilled the notice required by section 6(c) of the Act. The Commission also found that the claimant was credible when she "testified she actually advised the workers' compensation people that her claim was work related in a conversation at that time." The Commission noted that the claimant's testimony concerning this conversation was un rebutted. Accordingly, the Commission's finding with respect to timely notice is not against the manifest weight of the evidence.

¶ 51 The employer forfeited its arguments on appeal by failing to comply with Illinois Supreme Court Rule 341(h)(7)'s requirement that it support its argument in its brief with citations to relevant authority. Regardless of forfeiture, the employer's contentions on

appeal are not convincing and would not have been successful had we considered their merits.

¶ 52

#### CONCLUSION

¶ 53 For the foregoing reasons, we affirm the Circuit Court's judgment that confirmed the Commission's decision.

¶ 54 Affirmed.