Workers' Compensation
Commission Division
Order Filed: December 23, 2016

Nos. 1-15-1838WC & 1-15-1863WC (cons.)

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

UNIVERSITY OF ILLINOIS HOSPITAL,	)	Appeal from the
	)	Circuit Court of
Appellant and Cross-Appellee,	)	Cook County
	)	
v.	)	Nos. 14 L 50881
	)	14 L 50884
THE ILLINOIS WORKERS' COMPENSATION	)	
COMMISSION *et al.*	)	Honorable
	)	Carl Anthony Walker,
(Martha Aragon, Appellee and Cross-Appellant).	)	Judge, Presiding.

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

ORDER

¶ 1 *Held:* We affirmed the judgment of the circuit court which confirmed a decision of the Illinois Workers' Compensation Commission, awarding the claimant benefits pursuant to the Workers' Compensation Act (820 ILCS 305/1 *et seq*. (West 2008)).

¶ 2 The claimant, Martha Aragon, and the University of Illinois Hospital (University Hospital) both appealed from a judgment of the circuit court of Cook County which confirmed a decision of the Illinois Workers' Compensation Commission (Commission), awarding the claimant benefits pursuant to the Workers Compensation Act (Act) (820 ILCS 305/1 *et seq*.

(West 2008)) for injuries she sustained while in the employ of the University Hospital on October 21, 1999. The claimant argues that the Commission's finding that she is not permanently and totally disabled is against the manifest weight of the evidence. University Hospital argues that: (1) the Commission's finding that the claimant sustained an injury which arose out of and in the course of her employment is against the manifest weight of the evidence; and (2) the Commission's finding of a causal connection between the claimant's bilateral carpal tunnel syndrome and repetitive trauma the claimant sustained while in its employ is against the manifest weight of the evidence. For the reasons which follow, we affirm the judgment of the circuit court.

¶ 3 The following factual recitation is taken from the record on appeal, including the evidence presented at the arbitration hearing conducted on September 2 and 23, 2008.

¶ 4 The 54-year-old claimant testified with the aid of a Spanish translator that she began working as a "building service worker" for University Hospital in 1989. Her job duties included cleaning doctors' offices, classrooms, patient examination rooms, hallways, and restrooms. According to a written job description, the claimant was required to vacuum, dust, sweep, mop and wax the floors, collect and dispose of garbage, and clean the lavatories and restrooms. The position required "good manual dexterity," the ability to stand, walk, bend, knee crawl and stoop, the ability to push and pull 100 pounds, lift 50 pounds, and carry 40 pounds. The claimant testified that she is right hand dominant but the majority of her work required the use of both hands.

¶ 5 The claimant further testified that, while at work, on October 21, 1999, she could not feel her hands and dropped the mop she was carrying. She became "very afraid," and notified her supervisor, Jesse Mamone. Later that same day, the claimant went to the emergency department

at the University of Illinois Medical Center, complaining of pain and numbness in both hands, and constant pain the second, third, and fourth digits. She told the attending physician that the pain in her hands started six months ago and that she has experienced tingling and numbness in her hands and forearms for the past three weeks. Prior to that time, she had not had any treatment for the problems that developed in her hands and forearms. The claimant was diagnosed with "bilateral hand paresthesia, rule out carpal tunnel." The doctor gave the claimant a splint for both wrists, prescribed occupational therapy, and released her to light-duty work.

¶ 6 The claimant began occupational therapy on October 26, 1999, but continued experiencing pain and numbness in her hands and wrists. On November 8, 1999, the claimant was referred to the Neurology Department for an electromyogram (EMG). The EMG, performed on November 18, 1999, revealed moderate bilateral carpal tunnel syndrome. On November 29, 1999, the doctors at the University of Illinois Medical Center referred the claimant to Dr. Mark Gonzalez, an orthopedic surgeon, for an evaluation of her bilateral carpal tunnel syndrome.

¶ 7 On December 8, 1999, the claimant consulted with Dr. Gonzalez. According to the doctor's notes of that visit, the claimant reported pain and numbness beginning in the mid-forearm and radiating to all five fingers in both hands. Upon examination, Dr. Gonzalez found that the claimant showed decreased grip strength, decreased sensation in all five fingertips, and positive bilateral Phalen's and Tinel's signs. Dr. Gonzalez reviewed the EMG and diagnosed the claimant with bilateral carpal tunnel syndrome. He concluded that conservative treatment with therapy and "bracing" would not be beneficial due to the severity of the claimant's carpal tunnel syndrome and recommended bilateral carpal tunnel release surgery starting with the left hand.

¶ 8 On December 15, 1999, Dr. Gonzalez authored a letter reiterating his recommendation that the claimant undergo carpal tunnel release surgery. In this letter, Dr. Gonzalez also

expressed his opinion that the claimant's bilateral carpal tunnel syndrome was most likely exacerbated by her repetitive activity while working in a "janitorial capacity" at University Hospital. The doctor stated that he continued the claimant's work restrictions which included a 10-pound lift restriction, no repetitive motion, and no heavy mopping.

¶ 9 On January 27, 2000, the claimant sought a second opinion from Dr. John Fernandez. Dr. Fernandez wrote in his report that the claimant has worked as a "maintenance worker" at University Hospital for 10 years and she "described her work activities *** in great detail." She provided a history of having developed pain, numbness and tingling in her wrists and hands, and has been treated with splints, anti-inflammatory medication, and occupational therapy. Dr. Fernandez performed a physical examination, took x-rays, and reviewed the claimant's EMG of November 18, 1999. The doctor recorded a clinical impression of "bilateral wrist carpal tunnel syndrome, moderate, recalcitrant to conservative treatment." Based upon the nature and duration of the claimant's work, Dr. Fernandez opined that her bilateral carpal tunnel syndrome was causally related to her work and he agreed that surgery was appropriate. In his evidence deposition, Dr. Fernandez added that his examination revealed "no significant evidence of arthritis or previous significant trauma." When asked about the claimant's job duties, Dr. Fernandez testified that he could not recall what the claimant's job duties consisted of, except that they involved forceful and repetitive gripping of heavy objects; he could not explain why he omitted the claimant's job duties from his report.

¶ 10 The claimant testified that she stopped working at University Hospital on February 14, 2000, because it could no longer accommodate her work-restrictions.

¶ 11 On April 17, 2000, the claimant was examined by Dr. Paul Papierski at the request of University Hospital. In the history section of his report, Dr. Papierski noted that the claimant has

pain in her hands and continuous numbness and tingling in all of her fingers. The claimant denied having prior injuries or symptoms and stated that her symptoms developed gradually over time and became noticeable in October 1999. The claimant also complained of swelling, itching, and redness in her hands and feet, decreased energy, and pain in her elbows and neck. Following a physical examination and review of the claimant's medical records and EMG, Dr. Papierski diagnosed the claimant with "[b]ilateral carpal tunnel syndrome." He noted, however, that the claimant's complaints of swelling, itching, and redness in her hands and feet, as well as generalized fatigue, "are suggestive of a systemic process which could be the cause of her carpal tunnel syndrome." Dr. Papierski recommended blood testing to test the claimant's thyroid function and inflammatory arthropathies. He also stated that he reviewed the claimant's job duties as a "Building Service Worker" and found no activities that would contribute to the development of carpal tunnel syndrome. The doctor opined that the claimant's carpal tunnel syndrome is most likely idiopathic or secondary to some other systemic condition which causes her hands and feet to swell.

¶ 12 On May 26, 2000, the claimant sought treatment from her primary care physician, Dr. Jorge Cavero, for the symptoms in her hands and wrists. Dr. Cavero in turn referred the claimant to Dr. Sami Bittar, an orthopedic surgeon at MacNeal Hospital, to manage her carpal tunnel syndrome. On May 31, 2000, the claimant consulted with Dr. Bittar. The doctor reviewed the claimant's medical records and noted that she presented with "typical finding[s] of bilateral carpal tunnel [syndrome]." He discussed the carpal-tunnel-release surgical procedure with the claimant and the claimant agreed to proceed with surgery.

¶ 13 On July 19, 2000, the claimant underwent carpal tunnel release surgery on her right hand, which was performed by Dr. Bittar at MacNeal Hospital. Following surgery, the claimant

returned to Dr. Cavero reporting that she continued to experience pain in both hands. Dr. Cavero prescribed occupational therapy and referred the claimant to an orthopedic doctor.

¶ 14 On October 23, 2000, the claimant was examined by Dr. Tariq Iftikhar, an orthopedic hand surgeon at Great Lakes Orthopedics. Dr. Iftikhar's records state that the claimant underwent carpal tunnel release surgery in July 2000, felt some relief, but still has some tenderness and complaints of numbness and paresthesia in the right hand. The doctor's physical examination of the claimant's right hand revealed weakness of pinch and grip, diminished sensation, but no gross motor weakness. Examination of the left hand showed diminished sensation in the median nerve distribution to pin prick and to superficial touch and positive Phalen's and Tinel's signs. The doctor advised the claimant to continue the occupational therapy for the right hand and wear a wrist brace on her left hand. The doctor wanted to review the November 1999, EMG report before deciding how to proceed with the left hand.

¶ 15 On November 20, 2000, Dr. Iftikhar wrote to Dr. Cavero outlining the results of his examination with the claimant. He noted that the claimant continues to complain of pain in both hands and that he is going to schedule the claimant for a left median nerve decompression. On April 30, 2011, Dr. Iftikhar sent Dr. Cavero another letter updating him on the status of his consultation with the claimant. He wrote that the claimant was supposed to have left carpal tunnel release surgery, but it had to be cancelled "because of her insurance situation."

¶ 16 Thereafter, on June 7, 2001, Dr. Iftikhar operated on the claimant, performing a left carpal tunnel release and neurolysis. In a letter dated June 22, 2001, Dr. Iftikhar wrote to Dr. Cavero that the claimant has good subjective symptom improvement, has no particular problems, and "feels satisfied with relief of symptoms." Dr. Iftikhar also stated that he gave the claimant the option of occupational therapy, but she expressed a desire to try home exercises.

¶ 17 The claimant's medical records disclose that her hand and wrist symptoms returned and she was referred to occupational therapy. According to an initial evaluation from an occupational therapist, dated August 10, 2001, the claimant reported that she drops items and wakes at night in pain. The therapist's treatment plan consisted of, *inter alia*, physical therapy three times per week for three weeks, home exercises, and wearing a splint at night.

¶ 18 In a letter dated October 31, 2001, Dr. Iftikhar informed Dr. Cavero that the claimant currently presents with "multiple tender areas in both extremities." He noted that the left carpal tunnel examination is "satisfactory with good capillary filling and good sensations" and he suspects that the claimant's current symptoms might be related to fibromyalgia. Dr. Iftikhar recommended that the claimant continue occupational therapy.

¶ 19 In a progress note dated November 6, 2001, the claimant's occupational therapist wrote that, despite several months of therapy, the claimant continues to have pain and weakness in her hands and wrists, and reports frequent dropping of items. The therapist recommended discharging the claimant as she is not benefitting from occupational therapy.

¶ 20 In a letter dated December 19, 2001, Dr. Iftikhar notified Dr. Cavero that he performed an arthritis profile work-up, prescribed Xanax for anxiety, and referred the claimant to Dr. Daniel Hirsen, for a rheumatology consult.

¶ 21 The claimant was seen by Dr. Hirsen on January 3, 2002. He took a history from the claimant and reviewed the claimant's arthritis profile work-up, which was conducted on December 26, 2001. The doctor observed that the laboratory results came back negative for "ANA and rheumatoid factor" but the claimant had a "borderline C-reactive protein and sed[imentation] rate of 1.4 and 25 respectively." Dr. Hirsen noted that the claimant "clearly has carpal tunnel syndrome bilaterally," and the surgery has prevented progression of her carpal

tunnel symptoms. He also noted, however, that she may have abnormal or necrotic nerve fibers that are causing paresthesia and difficulty with fine movement. Dr. Hirsen observed that the claimant has Raynaud's phenomenon that seems to exacerbate her symptoms and numbness. He prescribed Nifedipine and Celebrex, ordered x-rays, and instructed the claimant to obtain wrist braces to wear at night.

¶ 22 On January 31, 2002, the claimant followed-up with Dr. Hirsen, reporting no improvement. Dr. Hirsen reviewed the x-rays and found juxta-articular osteopenia and carpal and metacarpal head lucencies which are indicative of inflammatory joint disease. Dr. Hirsen concluded that the claimant has inflammatory polyarthritis which is causing part of her joint symptoms and exacerbating her carpal tunnel symptoms. Dr. Hirsen reiterated his opinion that carpal tunnel release surgery would not "cure" the claimant's carpal tunnel symptoms or improve her hand dexterity; rather, the surgery would simply prevent progression of the claimant's symptoms. Dr. Hisen took the claimant off of Nifedipine and prescribed Sulfasalazine to serve as a long acting anti-inflammatory drug. He continued the claimant's Celebrex and asked her to return in six weeks.

¶ 23 The claimant returned to Dr. Hirsen on March 11, 2002, and June 13, 2002, with continued complaints of paresthesia and poor function in her fingers. The doctor recommended a re-evaluation of her carpal tunnel and ordered an EMG to see if a second attempt should be made at decompressing her median nerves. The EMG, performed on June 20, 2002, revealed "extremely mild abnormalities" and showed some evidence of "mild median neuropathy at the wrist (carpal tunnel syndrome) bilaterally and fairly symmetrically."

¶ 24 On October 14, 2002, Dr. Hirsen reviewed the EMG and determined that a second carpal tunnel surgery would not be beneficial. He believed that much of the claimant's symptoms are

caused by inflammatory polyarthritis. The doctor opined that she is "disabled" from work but her polyarthritis is not job related. Dr. Hirsen treated the claimant with Sulfasalazine, Plaquenil, and Celebrex.

¶ 25 The claimant treated with Dr. Hirsen on February 17, 2003 and June 23, 2003. She complained of paresthesia in the hands and said that she was dropping things and has burned herself. Dr. Hirsen wrote in his notes that it is not clear if the claimant has joint pain in addition to the paresthesia. He opined that the claimant's current symptoms are due largely to carpal tunnel syndrome. He injected Kenalog under each flexor retinaculum and instructed the claimant to continue wearing wrist braces. Dr. Hirsen noted that if her symptoms do not improve, carpal tunnel release should be considered.

¶ 26 On July 29, 2003, Dr. Fernandez performed another evaluation of the claimant. The claimant reported minimal improvement since her surgeries but continues to experience moderate tingling and numbness in the hands, particularly with exposure to activities, such as forceful gripping or grasping of the hands. Dr. Fernandez wrote in his report that he continues to believe that there was a significant contributory effect from the claimant's work history to the development of her carpal tunnel syndrome. He determined that the claimant had reached maximum medical improvement (MMI) and recommended that she continue treating her symptoms with medication, intermittent supervised therapy, and home exercises.

¶ 27 In his evidence deposition, Dr. Fernandez testified on cross-examination that he agreed that a systemic disease, such as polyarthritis or rheumatoid arthritis, could have been a causative factor in the claimant's development of carpal tunnel syndrome. The doctor testified that the claimant "did not appear" to have any systemic diseases. Although he conceded that he never performed any blood tests or collected a metabolic profile from the claimant, he recalled seeing a

partial metabolic profile in the claimant's medical records which showed that she claimant tested within normal limits. Dr. Fernandez testified that he does not believe that the claimant had a systemic, polyarthritic condition.

¶ 28 On December 5, 2005, University Hospital offered the claimant a position as a "Clerical Assistant (Learner)." According to the written job offer, the claimant would undergo a 12-month training program and would work from 8:30 a.m. to 5 p.m. According to the job description, clerical assistants greet visitors, answer phones, organize and file hard-copy medical records, and perform other administrative and clerical tasks. They are also required to work with computers.

¶ 29 On February 20, 2006, Dr. Fernandez wrote a letter to the claimant's attorney stating that he reviewed the job description for the "Clerical Assistant (Learner)" position and that the position fits within the claimant's work restrictions.

¶ 30 The claimant testified that she turned down the position because she does not know how to type or use a computer, has difficulty speaking English, and cannot read or write in English. The claimant also stated she has no experience answering phones, scheduling appointments, arranging files or organizing folders. She also explained that she completed the 6th Grade in Mexico and had a friend help her complete the job application when she applied to University Hospital. When asked on cross-examination why she turned down the position, the claimant testified that she was in a lot of pain.

¶ 31 At the request of the claimant's attorney, Joseph Belmonte, a vocational rehabilitation expert, conducted a vocational assessment of the claimant. In his written report dated January 4, 2007, Belmonte stated that he interviewed the claimant and reviewed her medical records. Based upon the medical information, Belmonte determined that the claimant is "restricted to essentially sedentary level physical demand functionality with regard to lifting or the application of material

handling activities." However, she can stand, walk, bend, stoop and can "perform in some capacities at the light duty level of physical demand." Belmonte believed that, although the claimant has "some expressive and receptive English-language capabilities, it is more probable than not that she is functionally illiterate in the English language." Based upon the claimant's limited education, work experience, communication skills, and lack of transferable work skills, Belmonte opined that she would not be able to perform in any meaningful clerical capacity where verbal or written communication is a significant component of the job. He further opined that it is unlikely that the claimant could be trained to perform such duties given her existing capabilities. Belmonte opined that it is "highly questionable, if not improbable," that the claimant could have performed the clerical work offered to her by University Hospital. In addition, Belmonte believed that the claimant's physical injury and restrictions has significantly restricted market access to viable, stable labor market offering gainful employment.

¶ 32 On July 18, 2008, at University Hospital's request, the claimant was evaluated by Dr. Samuel Goldberg, an orthopedic surgeon, for the purpose of an independent medical examination (IME). In his report, Dr. Goldberg noted that the claimant speaks mostly Spanish and her daughter assisted with translation. The doctor wrote that the claimant reported a history of having developed a spontaneous onset of weakness and numbness in both hands on October 21, 1999, while working for University Hospital. She denied upper extremity symptoms prior to October 21, 1999. The claimant currently complains of "heavy, tired hands, and numbness about the median nerve distribution of both hands." Although Dr. Goldberg acknowledged that the EMG of November 18, 1999, demonstrated moderate bilateral carpal tunnel syndrome, he stated that patients with carpal tunnel syndrome "usually respond to carpal tunnel release surgery," while patients with underlying metabolic, hormonal, or polyneuropathy conditions "commonly

fail to respond to the surgery." Dr. Goldberg noted that the claimant was also diagnosed with Raynaud's phenomenon and inflammatory polyarthritis, which would exacerbate the claimant's carpal tunnel symptoms. Dr. Goldberg opined that, because the claimant's bilateral carpal tunnel-like syndrome did not resolve with surgery, he does not believe that she had carpal tunnel syndrome as a work-related condition in October 1999. Rather, he believes the claimant's bilateral median nerve neuropathy was caused by her rheumatologic problems, inflammatory polyarthritis and Raynaud's phenomenon. Dr. Goldberg concluded, therefore, that the claimant's bilateral carpal tunnel syndrome was neither caused nor aggravated by her work as a janitor at University Hospital. He recommended that the claimant undergo a job-specific functional capacity evaluation to determine her work capacity.

¶ 33 The claimant testified that, as of the date of the hearing, she continued to have pain in both of her hands and forearms. She takes medication for the inflammation and pain and wears a splint on both hands every day. Her last day of work was February 13, 2000, and she has not worked since that date. On cross-examination, the claimant admitted that she never looked for work and never completed any job applications.

¶ 34 Following a hearing, the arbitrator found that the claimant sustained a work-related injury, as manifested on October 21, 1999, which aggravated a pre-existing condition, and that the current condition of ill-being in the claimant's wrists and hands was causally connected to her employment injury. The arbitrator awarded the claimant 179 4/7 weeks of temporary total disability (TTD) benefits for the period from February 14, 2000, through July 29, 2003, and ordered University Hospital to pay the claimant's reasonable and necessary medical expenses. In addition, the arbitrator awarded the claimant benefits of $291.11 per week for 73.625 weeks

because her bilateral carpal tunnel syndrome constituted a permanent and partial disability (PPD) to the extent of 25% loss of use of the right hand and 22.5% loss of use of the left hand.

¶ 35 Both the claimant and University Hospital filed for a review of the arbitrator's decision before the Commission. On May 26 2010, the Commission, with one commissioner dissenting and one commissioner concurring in part and dissenting in part, corrected and clarified certain portions of the arbitrator's decision, but affirmed and adopted the arbitrator's decision as to causation, TTD, and medical expenses. The commissioners could not agree as to whether the claimant was entitled to PPD benefits pursuant to section 19(e) of the Act (820 ILCS 305/19(e) (West 2008)).

¶ 36 The claimant and University Hospital both sought a judicial review of the Commission's decision in the circuit court of Cook County. The circuit court confirmed the Commission's decision.

¶ 37 Both the claimant and University Hospital appealed from the circuit court's order. On appeal, this court held that the Commission's decision was not final because a majority of the commissioners did not approve the PPD award and, consequently, did not dispose of the claimant's request for permanent disability benefits. Accordingly, we vacated the circuit court's judgment and remanded the cause to the Commission for further proceedings. *University of Illinois Hospital v. Illinois Workers' Compensation Comm'n*, 2012 IL App (1st) 113130WC, ¶¶ 11-14.

¶ 38 On October 24, 2014, the Commission issued its decision and opinion on remand. In its decision, the Commission affirmed and adopted the arbitrator's determination that the claimant sustained permanent partial disability to the extent of a 25% loss of use of the right hand and a

22.5% loss of use of the left hand, but concluded that the losses entitled the claimant to 90.25 weeks, rather than 73.625 weeks of PPD benefits.

¶ 39 The claimant and University Hospital both sought review of the Commission's decision in the circuit court. The circuit court confirmed the Commission's decision. Both parties filed timely notices of appeal which have been consolidated.

¶ 40 For its first assignment of error, University Hospital argues that the Commission's finding that the claimant sustained an injury arising out of and in the course of her employment is against the manifest weight of the evidence. It contends that the claimant's job duties did not consist of constant, repetitive activities which could constitute repetitive trauma.

¶ 41 In a workers' compensation case, the claimant has the burden of proving, by a preponderance of the evidence, that her injuries arose out of and in the course of her employment. *O'Dette v. Industrial Comm'n*, 79 Ill. 2d 249, 253 (1980). Both elements must be present in order to justify compensation under the Act. *Illinois Bell Telephone Co. v. Industrial Comm'n*, 131 Ill. 2d 478, 483 (1989). The determination of whether an injury arose out of and in the course of the employment is a question of fact for the Commission to decide, and its resolution of the issue should not be disturbed on review unless it is against the manifest weight of the evidence. *Knox County YMCA v. Industrial Comm'n*, 311 Ill. App. 3d 880, 885 (2000). In reaching its resolution of the issue, the Commission is entitled to make reasonable inferences from the evidence presented, and the reasonable inferences drawn by the Commission should not be rejected on review because the court might have drawn different inferences based upon the same evidence. *Id*. For the Commission's determination on an issue of fact to be against the manifest weight of the evidence, an opposite conclusion must be clearly apparent. *Id*.

¶ 42 Arising out of the employment refers to the origin or cause of the claimant's injury. An injury arises out of the employment if, at the time of the injury causing occurrence, the claimant was performing acts she was instructed to perform by her employer or acts which the employee might reasonably be expected to perform incident to her assigned duties. *Caterpillar Tractor Co. v. Industrial Comm'n*, 129 Ill. 2d 52, 58 (1989). In this case, the claimant's theory of recovery is that her bilateral carpal tunnel syndrome is causally related to the repetitive stress of gripping and lifting of heavy objects on a daily basis as part of her work duties. If such a causal relationship does exist, then clearly the injury causing acts arose out of her employment.

¶ 43 In the course of the employment refers to the time, place, and circumstances under which the claimant is injured. *Scheffler Greenhouses, Inc. v. Industrial Comm'n*, 66 Ill. 2d 361, 366 (1977). The gripping and lifting of heavy objects which the claimant asserts is a causative factor in the development of her bilateral carpal tunnel syndrome took place while she was working at University Hospital's premises and performing her assigned tasks. Again, if a causal relationship between the claimant's gripping and lifting of heavy objects at work on a daily basis and the development of her bilateral carpal tunnel syndrome exists, then the injury was sustained in the course of her employment.

¶ 44 The overarching issue in this appeal is whether the claimant's bilateral carpal tunnel syndrome is causally related to the performance of her duties at work. University Hospital argues that the Commission's finding of a causal connection between the claimant's bilateral carpal tunnel syndrome and her employment is against the manifest weight of the evidence. According to University Hospital, the Commission's reliance upon Dr. Fernandez's causation opinion was misplaced because he was not aware of the sporadic nature of the claimant's job duties or that she suffered from a systemic polyarthritic condition. Distilled to its essence,

University Hospital argues that the Commission should have relied upon the opinions of Dr. Papierski and Dr. Goldberg, who opined that the claimant's bilateral carpal tunnel syndrome was not causally related to her employment.

¶ 45 As noted earlier, Dr. Fernandez opined that the claimant's job duties, which involved repetitive and forceful gripping of tools, was a significant factor in the development of her bilateral carpal tunnel syndrome. Dr. Gonzalez similarly opined that the claimant's work activities more than likely exacerbated the claimant's bilateral carpal tunnel condition. Drs. Papierski and Goldberg, although agreeing that the claimant suffered from carpal tunnel syndrome, observed that the claimant also complained of swelling, itching, and redness in her hands which is "suggestive of a systemic process which could be the cause of her carpal tunnel syndrome." Dr. Papierski opined that the claimant's carpal tunnel syndrome was idiopathic or secondary to some other systemic condition, while Dr. Goldberg opined that it was caused by her rheumatologic problems, inflammatory polyarthritis and Raynaud's phenomenon.

¶ 46 The question of whether there exists a causal relationship between a claimant's employment and his condition of ill being is one of fact to be resolved by the Commission, and its determination on the issue will not be disturbed on review unless it is against the manifest weight of the evidence. *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 207 (2003). In order to be entitled to benefits pursuant to the Act, a claimant's employment need not be the sole cause of his injury, nor even the primary cause, so long as his employment was a causative factor in his condition of ill being. *Sisbro*, 207 Ill. 2d at 205. It is the function of the Commission to judge the credibility of the witnesses and resolve conflicting medical evidence. *O'Dette*, 79 Ill. 2d at 253.

¶ 47 In this case, the Commission acknowledged that Dr. Fernandez's causation opinion was "compromised" because he was not aware of the wide variance and sporadic nature of the claimant's job duties. The Commission also found that the credibility and weight of Dr. Fernandez's causation opinion was "reduced" because he did not expressly rebut the opinions of Drs. Papierski and Goldberg who opined that the claimant's bilateral carpal tunnel condition was idiopathic or secondary to the systemic polyarthritic conditions suffered by the claimant. Although the Commission found that the credibility and weight of Dr. Fernandez's causation opinion was "compromised" and "reduced," it nevertheless found that the claimant's carpal tunnel syndrome was aggravated by her work activities. We note that the Commission's decision in this regard is supported by the opinion of Dr. Gonzalez who opined that the claimant's bilateral carpal tunnel syndrome was most likely exacerbated by her repetitive work activity while working in a janitorial capacity at University Hospital. While Drs. Papierski and Goldberg offered a conflicting opinion—namely, that the bilateral carpal tunnel syndrome was caused by the claimant's systemic polyarthritic condition—the resolution of such conflicting medical opinions falls within the province of the Commission. Based upon the record before us, we are unable to conclude that the Commission's rejection of Drs. Papierski's and Goldberg's opinions is against the manifest weight of the evidence.

¶ 48 University Hospital makes much of the fact that the claimant's work activities as a Building Service Worker were not sufficiently repetitive to support a finding of a repetitive-trauma injury. It cites *Williams v. Industrial Comm'n*, 244 Ill. App. 3d 204 (1993), in support of its argument. We find *Williams* inapposite.

¶ 49 In *Williams*, the claimant testified that (1) "there was not a single task he performed regularly or on a daily basis"; (2) "he could perform a specific task one day and then not do it

again for months at a time"; and (3) he "did not use any particular tool or any object on a daily basis." *Id.* at 211. In upholding the Commission's finding that the claimant's work did not support a repetitive-trauma theory, the Appellate Court noted that the evidence showed the claimant did not perform the same task in a repetitive fashion on a daily basis. *Id.*

¶ 50 Unlike in *Williams*, the evidence in this case shows that, although the claimant testified that her work tasks varied from day to day, she made clear that she worked with her hands mopping, sweeping, vacuuming, and waxing floors, cleaning public and private restrooms, washing walls, and dusting furniture. She explained that she performed these duties every day for approximately eight hours per day. Since the record contains evidence supporting the Commission's finding that the claimant's job duties were sufficiently repetitive in nature, we cannot say that the Commission's finding that the claimant suffered a repetitive trauma injury that arose out of and in the course of her employment with University Hospital is against the manifest weight of the evidence. See *Peoria Bellwood*, 115 Ill. 2d at 530; see also *Three "D" Discount Store*, 198 Ill. App. 3d 43, 49 (1989) (claimant's job duties were sufficiently repetitive where he was required to use buffing machines to scrub, buff, and wax the floors six to eight hours per day); *Oscar Mayer & Co. v. Industrial Comm'n*, 176 Ill. App. 3d 607 (1988) (the claimant established an injury under a repetitive-trauma theory where his employment at a hog slaughtering facility required him to perform repeated arm, shoulder and hand movements for 15 years).

¶ 51 In her cross-appeal, the claimant argues that the Commission's finding that she failed to meet her burden of proving entitlement to permanent total disability (PTD) benefits on an "odd lot" theory is against the manifest weight of the evidence. Her argument in this regard rests upon

the opinions of her vocational rehabilitation expert, Belmonte, who opined that no stable labor market exists for an individual with the claimant's vocational profile and physical limitations.

¶ 52 An employee is totally and permanently disabled when she is unable to make some contribution to industry sufficient to justify the payment of wages. *A.M.T.C. of Illinois v. Industrial Comm'n*, 77 Ill. 2d 482, 487 (1979). If, as in this case, a claimant's disability is of such a nature that she is not obviously unemployable, or there is no medical evidence to support a claim of total disability, the burden is upon the claimant to prove by a preponderance of the evidence that she fits into an "odd lot" category; that being an individual who, although not altogether incapacitated, is so handicapped that she is not regularly employable in any well-known branch of the labor market. *Valley Mould & Iron Co. v. Industrial Comm'n*, 84 Ill. 2d 538, 546-47 (1981). A claimant may satisfy her burden in one of two ways: (1) by showing diligent but unsuccessful attempts to find work, or (2) by showing that, because of her age, skills, training, and work history, she will not be regularly employed in a well-known branch of the labor market. *Westin Hotel v. Industrial Comm'n*, 372 Ill. App. 3d 527, 544 (2007). Once a claimant establishes that she falls within an "odd lot" category, the burden shifts to the employer to prove that the claimant is employable in a stable labor market and that such a market exists. *Id.* Whether a claimant falls within the "odd lot" category is a question of fact to be resolved by the Commission, and its determination will not be disturbed on review unless it is against the manifest weight of the evidence. *Id*.

¶ 53 The claimant's vocational rehabilitation expert, Belmonte, opined that there is no stable labor market for an individual of the claimant's vocational profile; and, as the claimant notes, University Hospital did not present conflicting evidence from a vocational rehabilitation expert. However, University Hospital accommodated the claimant's work restrictions and subsequently

offered her a position as a clerical assistant. Further, it is undisputed that the claimant made no attempt to find work and Belmonte did not perform any job search.

¶ 54 Consequently, in order to establish her entitlement to PTD benefits on an "odd lot" theory, the claimant was required to show that, because of her age, skills, training, and work history, she will not be regularly employed in a well-known branch of the labor market. Belmonte opined that the claimant is incapable of gainful employment. However, we believe that the record contains sufficient evidence calling into question his opinion on this issue. The claimant was capable of working within her medical restrictions prior to her first surgery. Dr. Fernandez imposed the same sedentary work restrictions following the claimant's carpal tunnel release surgeries, and he opined that the assistant-clerical position offered by University Hospital fell within those restrictions. The Commission also noted that the claimant "took herself out of the job market," and "chose to stay off work and continue to receive her benefits from the State Employee Retirement System (SERS)." We conclude, therefore, that there is sufficient evidence in the record to support the Commission's determination that the claimant failed to meet her burden of proving her entitlement to PTD benefits based on an "odd lot" theory. Stated otherwise, the Commission's resolution of the issue is not against the manifest weight of the evidence.

¶ 55 Based upon the foregoing analysis, we affirm the judgment of the circuit court which confirmed the Commission's decision.

¶ 56 Affirmed.