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2016 IL App (1st) 160557WC-U

FILED: December 23, 2016

NO. 1-16-0557WC

IN THE APPELLATE COURT

OF ILLINOIS

FIRST DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

LAKE COUNTY FOREST PRESERVE,	)	Appeal from
	)	Circuit Court of
Appellant,	)	Cook County
	)	No. 15L50520
v.	)	
	)	
THE ILLINOIS WORKERS' COMPENSATION	)	Honorable
COMMISSION <i>et al.</i> (Angel Blanco, Appellee).	)	Carl Anthony Walker,
	)	Judge Presiding.

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

**ORDER**

¶ 1 *Held:* The Commission's finding that claimant's current condition of ill-being was causally related to his work-related injury was not against the manifest weight of the evidence.

¶ 2 On June 8, 2009, claimant, Angel Blanco, filed an application for adjustment of claim pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 to 30 (West 2008)), seeking benefits from the employer, Lake County Forest Preserve. Following a hearing, the arbitrator determined claimant sustained an accidental injury that arose out of and in the course of his employment on March 13, 2007. However, he partially denied claimant's claim for compensa-

tion, finding he failed to prove a causal relationship between his accident and his current condition of ill-being "as it relate[d] to his herniated disc and subsequent surgery." The arbitrator awarded claimant permanent partial disability (PPD) benefits for a 3% loss of use of the man as a whole and denied "[a]ll medical bills, treatment[,] and claim for [temporary total disability (TTD)] benefits after June 16, 2008."

¶ 3 On review, the Workers' Compensation Commission (Commission) modified the arbitrator's decision by finding claimant's current condition of ill-being was causally connected to his March 2007 work accident and awarding him (1) 46-5/7 weeks' TTD benefits from March 14, 2007, through May 14, 2007, and September 9, 2010, through June 3, 2011; (2) medical expenses totaling \$52,830.56; and (3) 75 weeks' PPD benefits for a 15% loss of use of the man as a whole. The Commission otherwise affirmed and adopted the arbitrator's decision. On judicial review, the circuit court of Cook County confirmed the Commission's decision. The employer appeals, arguing the Commission's finding that claimant's current condition of ill-being was causally related to his March 2007, work accident was against the manifest weight of the evidence. We affirm.

¶ 4 I. BACKGROUND

¶ 5 At the January 24, 2014, arbitration hearing, claimant testified he had worked for the employer for almost 25 years. Since approximately 2002, he held the position of crew chief. On March 13, 2007, claimant was picking up trash at work and slipped on black ice. He testified he fell on his buttocks and had difficulty getting up. Claimant called his supervisor, Ed Shanahan, who sent someone "to pick [him] up." Claimant asserted he experienced pain in his lower back and buttocks. Further, he stated he was taken to Condell Medical Center (Condell) for treatment and had to be carried "all the way into the office" because he could not walk. Claimant

denied making any previous workers' compensation claims or having any previous injuries to his lower back.

¶ 6 Records from Condell reflect he was seen on March 13, 2007, and reported slipping on ice at work. He complained of back pain and that both legs hurt. Claimant was diagnosed with a "lumbar contusion with strain." He was given work restrictions and prescribed medication. The record reflects claimant followed up at Condell throughout March 2007. His diagnoses remained the same and his work restrictions continued. Claimant was also prescribed physical therapy, which he underwent in March and April 2007.

¶ 7 Claimant testified the Park District Risk Management Agency (PDRMA) referred him to Dr. Stanford Tack with the Illinois Bone and Joint Institute, whom he saw for the first time on April 6, 2007. Records reflect claimant provided a history of his work accident and reported back pain with radiation to his left buttock. Dr. Tack's impression was posttraumatic back pain with a suggestion of left lumbar radiculopathy. He recommended a magnetic resonance imaging (MRI) scan, which claimant underwent on April 10, 2007. The MRI report noted the following:

"At L4-L5, there is a diffuse disc bulge with a small left paracentral disc protrusion/early herniation \*\*\*. Minimal encroachment on the ventral CSF on the left is noted without significant central or foraminal stenosis.

At L5-S1, there is a diffuse disc bulge without evidence of significant central or foraminal stenosis."

¶ 8 On April 13, 2007, claimant followed up with Dr. Tack, who had reviewed his MRI films and found them "remarkable for evidence of significant disk degeneration at L4-5 and

L5-S1 without associated spinal stenosis." He diagnosed claimant with diskogenic back pain and recommended an epidural steroid injection.

¶ 9 On April 27, 2007, claimant followed up with Dr. Tack, who noted claimant had undergone an epidural steroid injection at L4-5 but reported "essentially no response." According to Dr. Tack, claimant continued to have "complaints of axial back pain with some radiation to the left PSIS region." Further, he noted claimant reported "significant quality of life impairment both at home and occupationally." Dr. Tack recommended a second epidural steroid injection and continued claimant's work restrictions.

¶ 10 Claimant continued to follow up with Dr. Tack. On May 11, 2007, Dr. Tack noted claimant had undergone a second epidural steroid injection, which had been "quite helpful." He noted claimant was no longer describing radicular symptoms and recommended he return to work with increased physical capacities, including lifting of up to 30 pounds. On June 4, 2007, Dr. Tack found claimant was "doing reasonably well," stating: "[Claimant] still has some left PSIS symptoms. However, he is no longer taking medication actively. He is functioning well at work. He reports that his normal activities require relatively little lifting as he is principally a supervisor." Dr. Tack recommended claimant return to full-duty work and recommended he follow up in one month.

¶ 11 Claimant did not return to see Dr. Tack until April 2, 2008. At that visit, Dr. Tack stated claimant had been back at work for the past nine months and "doing reasonably well." According to Dr. Tack, claimant reported recently developing "recurrent symptoms radiating to his PSIS region as well as associated symptoms radiating into his left lower extremity." He noted claimant had "been modifying his own work activities." Further, claimant reported experiencing daily backaches and stiffness. Dr. Tack recommended an epidural steroid injection and that

claimant continue with his current work activities.

¶ 12 On May 30, 2008, claimant followed up with Dr. Tack, who noted claimant continued to experience left lower extremity radicular symptoms despite "a prolonged period of activity modifications, treatment with analgesic anti[-]inflammatory agents and epidural steroid injections." Dr. Tack recommended "pursuing a more specific diagnosis" and a repeat MRI, noting claimant's previous MRI was performed the previous year but "was a suboptimal quality standing MRI." Further, he stated claimant could continue with his work activities. On June 10, 2008, claimant's MRI was performed. The MRI report shows findings of "a posterior annular tear and diffuse disc bulge without stenosis" at L4-L5 and a "mild diffuse disc bulge and facet arthrosis without stenosis" at L5-S1.

¶ 13 On June 16, 2008, Dr. Tack noted claimant "continue[d] to experience chronic back pain with intermittent left lower extremity radicular symptoms." He stated he reviewed claimant's MRI films and made the following findings: "These are most remarkable for disk degeneration at L4-5 and L5-S1. There is a small annular tear at the L4-5 level. I see no evidence of focal disk herniation or spinal stenosis." Dr. Tack noted he discussed treatment options with claimant. He characterized claimant's symptoms as "relatively mild and minimally functionally limiting" and, as a result, recommended continued symptomatic management rather than surgery. He opined claimant was not a good surgical candidate "at this time." However, he did discuss potential surgical options with claimant in the event his symptoms progressed or became functionally limiting. Dr. Tack stated claimant could return to unrestricted work and follow up with him on an as-needed basis. Additionally, he stated that, barring further changes in symptomatology, he would consider claimant to be at maximum medical improvement (MMI).

¶ 14 Claimant testified he performed full-duty work for the employer until March 20,

2009. However, he stated he continued to have back pain that inhibited his work performance. According to claimant, he was "okay for a while," but then started having the same pain again. He described the pain as being in his lower back and extending to his left leg. Claimant told his supervisor, Shanahan, about his "situation" and Shanahan recommended he call PDRMA. Claimant testified he contacted PDRMA and reported having "the same problems with [his] lower back" and numbness in his left leg. Claimant asserted he "asked them a few times" to authorize treatment and spoke several times with the risk manager for the employer, Larry Bakaned. Ultimately, he was given authorization to see Dr. Jonathan Citow, a board certified neurosurgeon, whom he began seeing in March 2009.

¶ 15 Claimant testified that from the time he returned to work in May 2007, to when he began seeing Dr. Citow in March 2009, he complained about his lower back and leg problems to Shanahan, the employer's human resources department, and Bakaned. He asserted he complained to Shanahan approximately 30 times. Also, during that time period, Shanahan would send other workers to help claimant during times claimant was working alone. Claimant testified he typically worked alone in the "winter months," which he described as being the end of October through March. He stated Shanahan would send help "[a]s many times as [he] needed." Claimant estimated that other workers were sent to help him 12 to 15 times during the months he worked alone.

¶ 16 Claimant testified he saw Dr. Jai Nho, his primary care doctor, after returning to full-duty work and complained of back pain. At arbitration, the employer submitted an exhibit containing Dr. Nho's records. Those records show that, between June 2008 and March 2009, claimant saw Dr. Nho on four occasions (June 26, 2008; September 3, 2008; December 22, 2008; and January 29, 2009). While some of Dr. Nho's records are handwritten and difficult to deci-

pher, they do not appear to reflect any back-related complaints between June 2008 and March 2009. Dr. Nho's records also show claimant was seen by Dr. Tomas Nemickas in connection with his left shoulder.

¶ 17 On March 20, 2009, claimant saw Dr. Citow and provided a history of his March 2007, work accident. Dr. Citow noted claimant developed severe back pain extending to the left buttock and hip and rarely distally towards the ankle. He stated claimant remained symptomatic after three epidural steroid injections, several months of physical therapy, and various anti-inflammatory medications. Dr. Citow noted claimant's June 2008 MRI demonstrated "small L4-S1 disc protrusions with endplate edema and degenerative change." He recommended a flexion/extension x-ray to rule out instability and a left SI injection to help with focal pain. If claimant remained symptomatic, he recommended an MRI and possibly a bone scan.

¶ 18 Claimant testified he could not get authorization for the MRI recommended by Dr. Citow until he was seen by "an independent doctor." On May 4, 2009, claimant saw Dr. Avi Bernstein, a spine surgeon, at the employer's request. He provided a history of his work accident and reported low back pain with a burning sensation in his left buttock area and pain that occasionally went into his calf. Dr. Bernstein found claimant's June 2008 MRI did not show a distinct disc herniation or nerve root compression. He provided the following assessment:

"[Claimant] may have suffered a lumbar discogenic injury or strain as the result of a work related incident. Despite [claimant's] subjective complaints, he is fully functional and is not a candidate for surgical intervention. He is at [MMI]. No further therapeutic modalities or diagnostic workup are indicated or necessary."

¶ 19 On August 7, 2009, claimant returned to see Dr. Citow and reported persistent

back pain without significant radicular symptoms. Dr. Citow recommended a more recent MRI of claimant's lumbar spine. On August 20, 2009, claimant's MRI was performed. The MRI report set forth the following impression:

- "1. Lateral disk protrusion at the L5-S1 level resulting in moderate to severe narrowing of the left neural foramen and mild effacement of the left lateral recess.
2. Small posterior annular tear at the L4-L5 disk level with mild narrowing of neural foramina."

On October 7, 2009, Dr. Citow described claimant's MRI as showing "L4-S1 dehydration with a left sided protrusion at L5-S1 narrowing the neuroforamen."

¶ 20 On October 23, 2009, claimant followed up with Dr. Citow and reported continued "bothersome pain in the left side of the lower back extending to the hip and groin and occasionally into the ankle." Dr. Citow noted claimant had been off work due to recently having shoulder surgery. Dr. Citow recommended claimant obtain a second opinion regarding whether his back condition was work related and his need for surgery. At arbitration, claimant testified his shoulder surgery was due to a non-work-related injury and caused him to be off of work for 10 weeks.

¶ 21 On February 19, 2010, claimant saw Dr. Shakuntala Chhabria, a neurologist. Dr. Chhabria noted Dr. Citow recommended surgery for claimant and she was seeing him for a second opinion. Her records reflect claimant provided a history of his March 2007 work accident and reported low back pain since that time. Dr. Chhabria's impressions were a herniated disk at L5-S1, left leg pain, sciatica, and a lumbosacral strain. She recommended an electromyography (EMG) test for claimant's legs, an L5-S1 block, and a "[n]eurosurgical evaluation by Dr. Citow

for consideration of surgical intervention." On February 22, 2010, claimant underwent an EMG, which Dr. Chhabria stated showed L5-S1 denervation.

¶ 22 On June 8, 2010, claimant saw Dr. James Adamson at Dr. Nho's request. Claimant provided a history of his work accident and developing pain radiating from his low back down his left leg. Dr. Adamson noted claimant's pain was primarily in his left gluteal region with occasional radiation down the back of his left leg to his left heel. Dr. Adamson stated he reviewed the report from an MRI claimant underwent in April 2010 and stated as follows:

"There is mild disk bulging at the L4-5 level with the principal finding of a broad-based disk protrusion at L5-S1 located centrally and toward the left side. This causes narrowing of the left neural foramen. The radiologist compared this to a previous MRI done in [August 2009]. The new MRI was considered to be stable in comparison with the previous MRI."

Dr. Adamson recommended a left L5-S1 discectomy for claimant.

¶ 23 On June 26, 2010, Dr. Citow noted he had reviewed claimant's April 2010 MRI. He found it showed "the L5-S1 disc herniation similar to the 2009 pathology." He recommended a left-sided L5-S1 microdiscectomy for claimant. On July 16, 2010, Dr. Citow noted claimant continued to have back pain extending through the left leg to the foot with numbness, weakness, and paresthesias. Again, he stated claimant's April 2010 MRI showed a L5-S1 disc herniation. He also noted a February 2010 EMG confirmed left L5 and S1 radiculopathies. Dr. Citow found claimant was symptomatic from his L5-S1 disc protrusion and repeated his recommendation for surgery.

¶ 24 On September 9, 2010, Dr. Citow performed surgery on claimant. On October 6,

2010, he noted claimant "still ha[d] back and left sided leg pain" and recommended six weeks of physical therapy. On January 7, 2011, Dr. Citow stated claimant had "lower back achiness" and "some pain extending towards the left leg." He noted claimant completed physical therapy and remained off work due to his pain. Dr. Citow recommended an MRI to make sure there was no significant pathology and, if everything looked normal, a work hardening program. On February 4, 2011, Dr. Citow reviewed an MRI performed on claimant in January 2011, stating it showed claimant's disc herniation was "much smaller than it was prior to surgery." He recommended claimant proceed with work hardening.

¶ 25 On February 23, 2011, Dr. Citow authored a report in which he opined claimant sustained "a work[-]related injury secondary to his [March 2007] fall." He believed claimant's work accident likely exacerbated his preexisting lumbar degenerative spondylosis. Dr. Citow further opined claimant's work-related injury ultimately required surgical intervention. Additionally, he stated he did not understand Dr. Bernstein's May 2009 opinion that claimant was not a surgical candidate, noting claimant had a "symptomatic work[-]related injury" that was "not responding to conservative means with medications, therapy and injections." Finally, Dr. Citow stated claimant required a functional capacity evaluation to determine his permanent limitations.

¶ 26 Claimant testified he was off work from the date of his surgery through June 3, 2011. On that date, he saw Dr. Citow, who noted claimant reported "mild lower back achiness" without distal pain, numbness, weakness, or paresthesias. He stated claimant had completed work hardening and was at MMI. He recommended claimant return to work immediately with a 30-pound lifting restriction for two weeks, followed by full-duty unrestricted work.

¶ 27 On August 8, 2011, claimant returned to see Dr. Bernstein at the employer's request. Dr. Bernstein reviewed claimant's January 2011 postoperative MRI and found some de-

generative changes from L4 to S1 but "no evidence of recurrent disc herniation." He provided the following assessment:

"Based on my prior evaluation of [claimant], I am unable to conclude that [he] suffered a disc herniation as the result of a work[-]related incident. I stand by my previous opinion at the time of my initial independent medical evaluation. Any strain that [claimant] suffered as the result of the initial work incident, should have been at [MMI] at about three months from the time of the incident. I do not feel that the microdiskectomy performed on September 9, 2010, was causally related to the work incident. Based on Dr. Tack's full[-]duty return to work recommendation, [claimant] appears to have been at [MMI] as of June 16, 2008. [Claimant] remains at MMI with respect to his work incident. I do not feel that [claimant] should have any permanent consequences of his work related incident."

¶ 28 At arbitration, claimant testified he was not the same since his work accident. He stated he struggled every day and continued to experience numbness in his left leg and back pain. He also continued to request help from his supervisor when working by himself. Further, he testified it took him more time than before his accident to perform his job duties.

¶ 29 The employer presented the testimony of Lurel Diver. Diver began working for the employer in 2002 as a human resource generalist. In the year and a half prior to arbitration, she held the position of assistant human resource and risk manager. Diver testified she was familiar with claimant, his March 2007 work injury, and his course of treatment. She further stated

that if claimant had any problems after returning to full-duty work she would have been responsible for making sure that notes were added to his workers' compensation file. To Diver's knowledge, claimant did not raise any complaints after returning to full-duty work in June 2007, nor did she recall him making any complaints after June 2008. He was also not provided with any modified duty work, which had to be approved in advance. Diver did recall that claimant had a conversation with Bakaned around March 2009, requesting an authorization for treatment. To the best of her knowledge, that was the first time he requested such an authorization.

¶ 30 Diver acknowledged that Shanahan, claimant's supervisor, had the authority to send other workers to help claimant. However, she was not aware of that ever happening. Diver testified that Shanahan "should" have reported sending workers to help claimant. She stated "it also should be reflected in [claimant's] performance analysis if [claimant] was not meeting performance expectations and therefore other individuals were being asked to assist with meeting performance goals." Diver stated she was not aware of any problems claimant had in performing his job duties. The employer submitted an exhibit containing claimant's performance appraisals from October 1, 2006, through September 30, 2009. Each described claimant as "exceed[ing] expectations."

¶ 31 On cross-examination, Diver described a performance appraisal as "the supervisor's opinion of the employee's work." Diver testified that, "[t]herefore, if [claimant] was not meeting performance expectations of the supervisor, it would be noted in the document." She agreed that if an employee was working while in pain and in need of medical treatment, it would not be reflected in his or her performance appraisal.

¶ 32 At arbitration, the employer also submitted an exhibit containing a log of the hours claimant worked from June 16, 2008, through March 20, 2009. The document showed

claimant worked overtime for the employer on 17 occasions. Diver's testimony indicated working overtime for the employer could be mandatory or voluntary. Whether it was mandatory depended on the situation. Additionally, she agreed that the log submitted by the employer did not specify whether the overtime claimant worked was mandatory or voluntary.

¶ 33 On February 11, 2014, the arbitrator issued his decision. As stated, he found claimant sustained an accidental injury that arose out of and in the course of his employment in March 2007, but that he failed to prove a causal relationship between his work accident and his condition of ill-being after June 16, 2008. The arbitrator denied claimant medical expenses and TTD after that date but found claimant entitled to PPD benefits for a 3% loss of use of the man as a whole.

¶ 34 On June 24, 2015, the Commission issued its decision in the matter. It modified the arbitrator's causal connection determination finding that claimant's current condition of ill-being was causally related to his March 2007, work accident and awarding him (1) TTD benefits from September 9, 2010, through June 3, 2011; (2) medical expenses of \$52,830.56; and (3) PPD benefits for a 15% loss of use of the man as a whole. It otherwise affirmed and adopted the arbitrator's decision. On January 21, 2016, the circuit court confirmed the Commission's decision. The employer appeals.

¶ 35 II. ANALYSIS

¶ 36 On appeal, the employer argues the Commission's finding of a causal relationship between claimant's current condition of ill-being and his March 2007, work accident was against the manifest weight of the evidence. It maintains the arbitrator was correct in finding claimant's condition of ill-being after June 16, 2008, was not causally related to his work accident. The employer contends the Commission's decision was only supported by claimant's own self-serving

testimony and the remaining evidence, including claimant's medical records, supported an opposite conclusion.

¶ 37 "A claimant bears the burden of establishing a causal connection between his or her condition of ill-being and employment." *ABF Freight System v. Illinois Workers' Compensation Comm'n*, 2015 IL App (1st) 141306WC, ¶ 19, 45 N.E.3d 757. Whether a causal relationship exists is a question of fact for the Commission. *Bolingbrook Police Department v. Illinois Workers' Compensation Comm'n*, 2015 IL App (3d) 130869WC, ¶ 52, 48 N.E.3d 679. On review, the Commission's decision will not be disturbed unless it is against the manifest weight of the evidence. *Dig Right In Landscaping v. Illinois Workers' Compensation Comm'n*, 2014 IL App (1st) 130410WC, ¶ 27, 16 N.E.3d 739. "For a finding of fact to be contrary to the manifest weight of the evidence, an opposite conclusion must be clearly apparent." *Id.* We note the appropriate test on review is whether the record contains sufficient evidence to support the Commission's determination, not whether this court might reach the same conclusion. *Id.*

¶ 38 Additionally, "[a]s the trier of fact, the Commission is primarily responsible for resolving conflicts in the evidence, assessing the credibility of witness, assigning weight to evidence, and drawing reasonable inferences from the record." *ABF Freight System*, 2015 IL App (1st) 141306WC, ¶ 19, 45 N.E.3d 757. "This is especially true regarding medical matters, where we owe great deference to the Commission due to its long-recognized expertise with such issues." *Id.*

¶ 39 Here, as stated, the Commission found claimant's current condition of ill-being, *i.e.*, his condition of ill-being after June 16, 2008, was causally related to his March 2007 work accident. We find the record contains sufficient support for its decision and it was not against the manifest weight of the evidence.

¶ 40 As noted by the Commission, claimant sustained an undisputed work-related injury in March 2007, when he slipped on black ice while working and fell. He immediately sought medical treatment and complained of back and leg pain. Claimant testified he had no prior back-related issues and no evidence was presented to rebut his testimony. Beginning in March 2009, claimant received treatment from Dr. Citow. In September 2010, Dr. Citow performed surgery on claimant. He also opined claimant's need for surgery was causally related to his March 2007 work accident.

¶ 41 On review, the employer challenges the Commission's decision by arguing claimant's medical records showed his work-related condition of ill-being had resolved as of June 2008. It emphasizes that Dr. Tack "placed [claimant] at MMI" on June 16, 2008, and asserts the Commission was "ignorant[t]" of this fact.

¶ 42 Initially, we note a determination that a claimant has reached MMI does not mean the end of a causal relationship between a claimant's work accident and his condition of ill-being. Rather, an MMI finding indicates the claimant's condition has stabilized and "is as far recovered or restored as the permanent character of [his] injury will permit." *Nascote Industries v. Industrial Comm'n*, 353 Ill. App. 3d 1067, 1072, 820 N.E.2d 570, 575 (2004). "Once an injured claimant has reached MMI, the disabling condition has become permanent and [he] is no longer eligible for TTD benefits." *Id.* Thus, a finding that claimant had reached MMI in June 2008 does not necessitate a finding of no causal connection after that date.

¶ 43 Additionally, the record fails to reflect the Commission was ignorant of Dr. Tack's statement on June 16, 2008, that "[b]arring further changes in symptomatology" he would consider claimant at MMI. In fact, the Commission specifically made reference to Dr. Tack's June 16, 2008, office note in its decision, stating as follows:

"The Commission takes note that as of April 6, 2007, [claimant] was found to have a mild positive straight leg raise test on the left. He also had pain radiating into the left buttock. While the June 16, 2008[,] medical record indicated that [claimant] was at [MMI] \*\*\* barring further changes[,] [d]uring the June 16, 2008[,] appointment, [claimant] had continued back pain with intermittent left lower radicular symptoms. His symptoms were still present as of June 16, 2008[,] and never fully went away."

¶ 44 The record reflects the Commission was well aware of Dr. Tack's statement regarding MMI but did not find it dispositive of the issue presented. We agree with its determination. Claimant's medical records show that, in April, May, and June 2008, he continued to experience symptoms in his lower back and left lower extremity. In April 2008, he reported that he had "been modifying his own work activities" as a result of his symptoms. In May 2008, Dr. Tack recommended a repeat MRI, which was performed in June 2008, and showed "a posterior annular tear and diffuse disc bulge without stenosis" at L4-L5 and a "mild diffuse disc bulge and facet arthrosis without stenosis" at L5-S1. On June 16, 2008, Dr. Tack noted claimant "continue[d] to experience chronic back pain with intermittent left lower extremity radicular symptoms." They discussed further treatment options, including surgical intervention in the event claimant's condition worsened. Thus, while Dr. Tack stated he would consider claimant at MMI at that point, he also noted claimant's continued symptoms and contemplated that his condition could worsen and require surgical intervention. Based on this evidence, we cannot say the Commission erred in failing to find claimant's work-related condition of ill-being had resolved as of June 16, 2008.

¶ 45           The record reflects claimant continued to work full-duty after June 16, 2008, and did not receive further medical treatment until March 2009, when he began seeing Dr. Citow. The employer contends claimant's "significant" gap in treatment between June 2008, and March 2009, indicates "his condition return[ed] to baseline in 2008 with his subsequent herniated disc being unrelated to the 2007 accident." However, as noted by the Commission, claimant testified that, during the relevant nine-month time frame, he continued to experience back and leg symptoms and requested assistance in performing some of his job duties. Claimant noted he worked alone in the winter months and his supervisor sent him help 12 to 15 times during those months. Additionally, the Commission found "the objective medical evidence establishe[d] no significant change in [claimant's] medical condition." It stated as follows:

"The Commission notes that the MRI film taken between April 2007[,] and June 2008[,] does not show any significant change. The April 2007 MRI revealed a diffuse disc bulge with a small left central disc protrusion/early herniation at L4-L5, and a diffuse disc herniation at L5-S1. The July [*sic*] 2008 MRI revealed a posterior annular tear and a diffuse disc bulge at L4-L5, and a mild diffuse disc bulge and facet arthrosis without stenosis at L5-S1. The August 20, 2009[,] MRI revealed a lateral protrusion at L5-S1 and a small posterior annular tear at L4-L5. All the MRIs revealed a disc bulge and do not reveal any significant change. [The employer's] argument that the April 2007 MRI showed no pathology for a herniated disk is without merit. \*\*\* There was pathology as early as April 2007."

¶ 46 The employer points out that claimant saw his primary care doctor, Dr. Nho, during his gap in treatment between June 2008 and March 2009 but made no back-related complaints. While we do not disagree with the employer's assertion, we also do not find it warrants a different result than that reached by the Commission. The record reflects claimant experienced back and leg pain following his work accident and was continuing to experience such symptoms in June 2008. After resuming treatment in 2009, he continued making similar complaints. Additionally, we find the Commission's characterization of claimant's MRIs was supported by the record and its finding that pathology existed as early as April 2007 with no significant change was not against the manifest weight of the evidence.

¶ 47 The employer further argues the Commission erred because claimant had no documented job modifications during his gap in treatment and the documentary evidence showed only that claimant worked full duty, worked voluntary overtime, and had positive performance appraisals. The record shows Diver, the employer's witness, testified claimant was not provided with modified-duty work, which had to be approved in advance. However, claimant's testimony as to the performance of his work duties indicated only that he occasionally requested help from Shanahan, his supervisor, while working alone in the winter months. The evidence did not reflect that such circumstances equated with a formal request for modified duty, which would require advanced approval and of which Diver would have been aware. Further, although the documentary evidence submitted by the employer showed claimant worked overtime and received positive performance appraisals, Diver's testimony also established that the overtime could have been mandatory and claimant's performance appraisals addressed only whether he was meeting his supervisor's expectations, not whether he was working while in pain and in need of medical treatment. As a result, such evidence also does not warrant a different result than that reached by

the Commission.

¶ 48 Finally, we note the Commission relied on Dr. Citow's opinions in finding claimant's current condition of ill-being was causally related to his work accident. In February 2011, Dr. Citow opined claimant sustained a work-related injury as a result of his March 2007 fall and that his work-related injury required the surgery he performed on claimant in September 2010. Both Dr. Chhabria and Dr. Adamson also recommended surgery. As stated, it is particularly within the province of the Commission to resolve conflicts in the medical evidence. In this instance, we find no error in the Commission's finding that Dr. Citow's opinions were more persuasive than the conflicting opinions of Dr. Bernstein.

¶ 49 Here, contrary to the employer's assertions, we find the record contains sufficient evidence to support the Commission's decision that claimant's current condition of ill-being was causally related to his work accident. Despite claimant's nine-month gap in treatment, the Commission's causal connection finding was supported by the chain of events, demonstrating no back related-issues prior to the work accident and continuing symptoms thereafter; claimant's medical records; and Dr. Citow's opinions. An opposite conclusion from that reached by the Commission is not clearly apparent and the Commission's decision was not against the manifest weight of the evidence.

¶ 50 III. CONCLUSION

¶ 51 For the reasons stated, we affirm the circuit court's judgment, confirming the Commission's decision.

¶ 52 Affirmed.