2017 IL App (1st) 160911WC-U
No. 1-16-0911WC
Order filed: June 30, 2017

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IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

JOSEPH MANSELL,	)	Appeal from the Circuit Court
	)	of Cook County.
Plaintiff-Appellant,	)	
	)	
v.	)	No. 15-L-50524
	)	
THE ILLINOIS WORKERS'	)	
COMPENSATION COMMISSION and	)	
MURPHY CHEMICAL CO.,	)	Honorable
	)	Kay M. Hanlon,
Defendants-Appellees.	)	Judge, Presiding.

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

ORDER

¶ 1 *Held*: The Commission's conclusion that claimant failed to establish that his current conditions of ill-being are causally connected to his occupational exposure to chemicals was not against the manifest weight of the evidence where the physician relied on by claimant in support of his theory possessed an inaccurate history regarding claimant's occupational exposure and no other physician directly related claimant's conditions of ill-being to his exposure to chemicals in the workplace.

¶ 2 I. INTRODUCTION

¶ 3 Claimant, Joseph Manzell, sought workers' compensation benefits, alleging that he sustained injuries to his liver and other organs as a result of repeated exposure to chemicals while working for respondent, Murphy Chemical Inspection Company. Following a hearing, the arbitrator denied benefits. Although the arbitrator agreed that claimant experienced occupational exposure arising out of and in the course of his employment with respondent, he determined that claimant failed to prove by a preponderance of the credible evidence that his current conditions of ill-being are causally related to his exposure to chemicals in the workplace. Accordingly, the arbitrator denied claimant benefits under the Workers' Occupational Diseases Act (Act) (820 ILCS 310/1 *et seq*. (West 2000)).[1] The Illinois Workers' Compensation Commission (Commission) unanimously affirmed the arbitrator's decision. On judicial review, the circuit

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[1] In his application for adjustment of claim, claimant indicated that he was seeking relief pursuant to the Workers' Compensation Act (820 ILCS 305/1 *et seq*. (West 2000)). However, the arbitrator interpreted the claim as one filed under the Workers' Occupational Disease Act and our review of the record establishes that the parties treated the claim as an occupational exposure case. See 820 ILCS 310/19(a)(3) (West 2000) ("Whenever any claimant misconceives his remedy and files an application for adjustment of claim under the Workers' Compensation Act and it is subsequently discovered, at any time before final disposition of such cause that the claim *** should properly have been made under [the Workers' Occupational Diseases] Act, then the application so filed under the Workers' Compensation Act may be amended in form, substance or both to assert [a] claim *** under [the Workers' Occupational Diseases] Act."); *Lutrtrell v. Industrial Comm'n*, 154 Ill. App. 3d 943, 956 (1987).

court of Cook County confirmed the decision of the Commission. On appeal, claimant insists that the Commission's finding that he failed to establish that his current conditions of ill-being are causally related to his exposure to chemicals while employed by respondent was against the manifest weight of the evidence. We disagree and affirm.

¶ 4 II. BACKGROUND

¶ 5 Claimant worked for respondent as a chemist and chemical inspector between 1991 and August 2001. Claimant's position involved sampling, inspecting, and performing laboratory tests of petroleum products. He performed his duties at various locations, including barges, railroad cars, tank trucks, and various terminals. One of those terminals is owned by International Matrix Tank Terminal (IMTT), and respondent rents space within the terminal from IMTT. Claimant described the IMTT facility as "very big," with a docking location where barges enter. The IMTT facility also has storage tanks, railroad transfer areas, and a scale house. Claimant testified that IMTT had control over the "outside" areas where he sampled and tested chemicals.

¶ 6 Claimant described his sampling and inspecting duties. He explained that he would inspect trucks while they were being loaded to "make sure no particles of water residuals or anything like that would get in there." Monitoring these transfers required taking samples and performing tests. As claimant explained, "[i]f they were doing any type of transfer, we would have to inspect that transfer when it was going on and then sample it and bring it back and test to make sure it was okay." Claimant also described the two laboratories where the testing was performed. He stated that there was one main laboratory and a smaller laboratory "off to the side." The main laboratory had a wall-mount ventilation system, but lacked a fume hood. The smaller laboratory did not have any ventilation system.

¶ 7 Claimant testified that he worked with numerous chemicals, including ethylene chloride, perchloroethylene, ethylene dichloride, trichloroethylene, solvent 1 trichloroethylene, styrene, ethylene glycol, acetone, and toluene. With the exception of the acetone and toluene, claimant handled most of the chemicals on a daily basis. Claimant testified that he worked at least 40 hours each week. Respondent supplied protective gear such as boots, gloves, safety glasses, and a hard hat. Although IMTT employees wore respirators in regulated areas, respondent did not provide any sort of respirator to claimant.

¶ 8 On August 9, 2001, claimant began to experience right-flank pain, something he had not experienced prior to that time. Claimant sought treatment, but it was several days before the doctor could see him. Claimant testified that he notified respondent of his condition and asked for a change of position, but his supervisor refused the request. According to claimant, he was told "to come back and do the same job [he] was doing otherwise there was no place for [him] there." Claimant did not return to respondent's employ after August 9, 2001. Claimant believed that he was fired from his position since respondent cancelled his insurance.

¶ 9 The medical records indicate that claimant was seen by Dr. Amit Joshi on August 8, 2001. Dr. Joshi's notes, which are mostly handwritten, are difficult to read. They suggest that claimant presented with complaints of right-flank pain over the prior four weeks. Dr. Joshi recommended blood work, a urinalysis, and a physical. Following the testing, Dr. Joshi evaluated claimant on August 10, 2001. Claimant's tests indicated that he had elevated blood sugar and elevated liver enzymes, specifically alanine transaminase (ALT). Dr. Joshi ordered repeat blood work and liver-function tests. Dr. Joshi opined the symptoms could be secondary to musculoskeletal strain and he recommended a renal and liver sonogram. An ultrasound of the

liver and kidneys was performed on August 15, 2001, and revealed diffuse fatty infiltration of the liver and a 10 millimeter cyst at the lower pole of the right kidney.

¶ 10 On October 10, 2001, claimant presented to Dr. Vincent Muscarello of the Southwest Center for Gastroenterology. Dr. Muscarello's report indicates that claimant was being evaluated for liver-function abnormalities found in conjunction with a complaint of right back pain. Claimant noted he was employed by a chemical testing laboratory and, for the past 10 years, worked with numerous aromatic compounds as well as solvents such as methanol, ethylene dichloride, and cyclohexanol. Claimant reported that he had been unemployed for a month prior to his visit with Dr. Muscarello and had been away from chemical exposure during that time. Claimant stated that since leaving employment he has had nearly 100% improvement in his symptoms.

¶ 11 Dr. Muscarello concluded that claimant's right-flank pain was not typical pain caused by an enlarged liver. He noted that claimant's liver-function abnormalities were "very modest." Given that and the fact that claimant showed no enlargement of the liver on examination, Dr. Muscarello "tend[ed] to doubt this as the cause for the pain." He noted that claimant is an active swimmer and runner and stated that it is "conceivable" that the source of his pain was "a lumbosacral strain that caused the symptoms as well as the long period of time in which the symptoms were endured followed by virtual complete resolution." Dr. Muscarello recommended CT scans of the liver, retroperitoneum, abdomen, and pelvis. Claimant declined to undergo this testing.

¶ 12 Dr. Muscarello also concluded that claimant's elevated liver-function tests correspond to findings of fatty liver on ultrasound. Dr. Muscarello stated that while he could not exclude the possibility of long-term chemical exposure causing some degree of hepatic dysfunction and

liver-function abnormalities, he doubted the cause of the pain was related to liver disease. Dr. Muscarello indicated that the liver-function abnormalities could be purely a phenomenon of exogenous obesity given claimant's height and weight. He also identified other potential causes for the liver-function abnormalities. He noted, for instance, that an acute etiology such as "muscle burn," hepatitis C, autoimmune hepatitis, hemochromatosis, or Wilson's disease "might produce modest liver function abnormalities."

¶ 13 Dr. Muscarello recommended "considerable further workup" to ascertain the cause of claimant's problems. Dr. Muscarello noted, however, that claimant was "somewhat loathe to pursue further workup" and that his "main focus is justification for quitting his employment on the theory that chemical exposure caused liver disease." Nevertheless, claimant agreed to undergo a blood-chemistry survey to help document normalization of his liver functions and iron studies to exclude the possibility of hemochromatosis. Dr. Muscarello also recommended a hepatitis C test.

¶ 14 On October 15, 2001, claimant underwent a comprehensive metabolic panel and iron studies. On October 17, 2001, claimant consulted Dr. Joshi regarding the laboratory tests. At that time, claimant reported ongoing low-grade discomfort with right flank pain. Dr. Joshi reviewed Dr. Muscarello's evaluation and recommended the additional laboratory tests directed therein. However, claimant wished to hold off on additional testing because of uncertainty with insurance coverage. In a letter dated October 18, 2001, Dr. Joshi noted that claimant expressed concern that his exposure to possibly harmful chemicals at his workplace may have caused his illness. Dr. Joshi remarked that, "[a]t this time, it is difficult to exclude the possibility of chemical exposure causing [claimant's] symptoms and liver function abnormalities." Dr. Joshi went on to state that "[i]deally, a completion of [claimant's] laboratory workup would be more

helpful in settling the matter at hand." Dr. Joshi also felt that an evaluation by an environmental physician may be of assistance.

¶ 15 On November 14, 2001, claimant underwent additional testing, which resulted in a finding of negative for hepatitis C and a positive finding of elevated liver function. On November 26, 2001, claimant presented to Dr. Michael Heniff at the Midwest Center for Environmental Medicine. Dr. Heniff's report, only the first page of which is contained in the record, reveals the following. Claimant had a chief complaint of chemical exposure and fatty liver with chest pain. Claimant did not drink alcohol but was a former smoker who had worked in a chemical plant for 10 years "with exposure to acetone, ethylene glycol, methanol, and a number of other hydrocarbons, none of which he has had significant exposure to from what [Dr. Heniff] can gather." Claimant complained of chest pain at his right lower rib area, which had been occurring since August 2001 when he quit his job, but gradually improved over the past month.

¶ 16 Claimant followed up with Dr. Joshi on December 14, 2001. At that time, Dr. Joshi recorded that claimant's liver-function tests were elevated. Dr. Joshi also authored a letter that day in support of claimant's application for unemployment benefits. The letter provided in part as follows:

> "I have sent [claimant] to a gastroenterologist and an environmental physician who is a pulmonologist, who have both confirmed that [claimant] does have abnormal liver function tests. Both physicians agree that the etiology of this elevation of the liver function tests is obscure. At this point it is not clear whether exposure to chemicals at work is a likely cause of this problem. However, I do believe that it is preferable for [claimant] to avoid further contact with chemicals as he does have a marked elevation of

> his liver enzymes. In concurrence with the pulmonologist and the gastroenterologist I feel that it is advisable for [claimant] to avoid exposure to various chemicals that could possibly worsen his liver function tests."

¶ 17 Claimant underwent additional blood tests in mid-April. He returned to see Dr. Joshi on April 24, 2002, for the test results, which again showed elevated liver-function tests. On April 26, 2002, Dr. Joshi determined that claimant likely had non-alcoholic steatohepatitis (NASH) and recommended a biopsy of the liver.

¶ 18 On February 1, 2003, claimant was evaluated by Dr. David Van Thiel at Loyola University Medical Center's gastroenterology clinic. Plaintiff related a history of working with chemicals. Claimant reported that since 1998, he has experienced two episodes of nausea, chills, vomiting, and dry heaves lasting about two days. Claimant felt this was associated with exposure to chemical vapors for extended periods of time on hot days. Claimant reported that the most recent attack was in August 2001 and was very severe. Dr. Van Thiel ordered various tests, including blood work and a CT scan and ultrasound of the abdomen. On March 5, 2003, a CT scan and ultrasound of the liver were performed. The CT scan revealed fatty liver, but no splenomegaly or ascites. The ultrasound demonstrated the liver was normal in size and appeared echogenic and slightly heterogeneous in echotexture, which was consistent with fatty liver.

¶ 19 Claimant returned to see Dr. Van Thiel on March 24, 2003. At that time, claimant reported ongoing headache and dizziness with blurred vision as well as right lower quadrant pain. Dr. Van Thiel recommended proceeding with a colonoscopy, a CT of the abdomen with contrast, and a liver biopsy. Claimant underwent the liver biopsy on April 22, 2003. The pathology report for the liver biopsy diagnosed (1) steatosis, macrovascular, involving approximately 80% of the hepatic parenchyma with focal mild lobulitis, minimal portal

inflammation (grade 1), and mild periportal fibrosis (stage 2), consistent with steatohepatitis and (2) focal mild perivenular fibrosis with focal minimal intra sinusoidal fibrosis. The surgical report of the colonoscopy, which was performed on May 2, 2003, indicates several polyps were removed.

¶ 20 On June 2, 2003, claimant followed up with Dr. Van Thiel. Dr. Van Thiel's assessment was mild-to-moderate reflux esophagitis, Crohn's disease, diabetes mellitus, and fatty liver 80% macrostatic. Dr. Van Thiel prescribed Avandia, vitamin E, vitamin B6, and folate. Claimant was to return to the clinic in six to eight weeks for additional laboratory work as well as a CT scan of the abdomen and pelvis.

¶ 21 The CT scan of the abdomen and pelvis was performed on October 18, 2003. The clinical history for the examination was "follow-up Crohn's disease" and comparison was made to the March 5, 2003, examination. The test revealed persistent mild hepatomegaly, with interval resolution of fatty infiltration of the liver, but no splenomegaly or ascites were identified.

¶ 22 Claimant next presented to Dr. Van Thiel on February 27, 2004, and reported complaints of lymph node and throat soreness. Examination findings were all noted to be within normal limits, with impressions including history of fatty liver, Crohn's disease, reflux esophagitis/Barrett's, and diabetes mellitus. The treatment plan was a cardiac stress test, consultation with Dr. Joshi regarding the lymph node soreness, and repeat laboratory work.

¶ 23 On April 19, 2004, claimant followed up with Dr. Joshi. Dr. Joshi noted that the physicians at Loyola had diagnosed claimant with Crohn's disease, fatty liver, and diabetes. Claimant returned to see Dr. Joshi on June 14, 2004, to review his most recent test results. Dr. Joshi diagnosed diabetes mellitus, NASH, and Crohn's disease. When claimant saw Dr. Joshi on

July 14, 2004, to review his lab work, Dr. Joshi documented that claimant was "convinced he has a renal problem." Dr. Joshi noted claimant was to see a nephrologist.

¶ 24 On October 21, 2004, claimant was evaluated by Dr. Joseph Oyama of Southwest Nephrology. Claimant provided a history of "right flank pain and right lower back pain that seems to have started 6-8 months ago." An evaluation had shown fatty liver and mildly abnormal liver enzymes. Since that workup, claimant had abnormal blood glucoses and was considered to have diabetes. Claimant also complained of some pain in his throat and hoarseness. He advised the doctor that he was an organic chemist for many years and believes he was exposed to a number of chemicals. After an examination and review of laboratory results, Dr. Oyama's assessment was right flank and low back discomfort of unspecified etiology and normal kidney function. Dr. Oyama concluded claimant did not demonstrate any renal abnormalities of concern. He did not have any recommendations for further renal workup but did suggest an examination by an ear, nose, and throat specialist because of claimant's hoarseness and throat pain.

¶ 25 Dr. Joshi evaluated claimant on March 2, 2005, at which time he complained of throat discomfort with hoarseness as well as " 'liver & spleen' pain." Dr. Joshi recommended an evaluation by an ear, nose, and throat specialist, and ordered a CT scan of the abdomen and pelvis. An ultrasound of the liver and spleen was performed on March 9, 2005, with a comparison made to the prior study from August 15, 2001. The test revealed increased echogenicity of the liver suggestive of diffuse parenchymal disease or fatty infiltration. The test was otherwise unremarkable.

¶ 26 Pursuant to a referral from Dr. Joshi, claimant consulted with Dr. Joseph Gavron of Southwest Head & Neck Associates. The only record of that treatment is an office note dated

April 29, 2005, with a diagnosis of hoarseness. Dr. Gavron's note also states that claimant "feels better with Nexium therapy" and that "[o]n endoscopic exam, the poly tissue is gone," but that there are signs of GERD.

¶ 27 There was a gap in treatment between early 2005 and late 2007. On October 1, 2007, claimant returned to see Dr. Joshi with complaints of increased blood sugar that he was unable to control. Dr. Joshi prescribed medication.

¶ 28 An additional treatment gap occurred between October 2007 and the middle of 2008. On June 10, 2008, claimant again consulted Dr. Muscarello. In a letter to Dr. Joshi, Dr. Muscarello indicated that claimant was being evaluated regarding his suitability to return to work in the petrochemical industry. Dr. Muscarello noted the salient aspect of claimant's case was he was documented to have both an increase in liver-function tests and hepatomegaly that may have triggered right-sided abdominal and back symptoms. Those symptoms had "promptly resolved once [claimant] spontaneously quit his job with [respondent]." Claimant was subsequently seen at Loyola, although the doctor only had a CT scan report from that visit. Dr. Muscarello noted that the CT report indicated that between March and October 2003, claimant had "considerable resolution of fatty infiltration of the liver along with a slight decrease in hepatomegaly." Dr. Muscarello indicated, "[o]f interest is that the reason for the CAT scan was 'follow-up of Crohn's disease.' " In questioning claimant on this, "he states that he was colonoscoped at Loyola and he had been told that he had Crohn's disease and started on medication," but he quit it shortly thereafter because he "does not believe he has the problem."

¶ 29 Claimant told Dr. Muscarello that his "biggest exposure" while working for respondent was methylene chloride. Dr. Muscarello emphasized there are not a lot of human studies on methylene chloride exposure, but noted that the studies available indicate that "with proper

safety precautions including *exposure suits and respirators*, there does not appear to be any increased risk of liver toxicity." (Emphasis in original.) By history, claimant had significant inhalation exposure and had similar responses as seen in rat studies. As the doctor suspected, there is some component of a hypersensitivity reaction that develops in these patients. He was highly suspicious that even a small exposure to this agent could result in an exaggerated hepatitis response with significant rises in liver-function tests, fatty infiltration, and perhaps even an overt drug-induced hepatitis. Dr. Muscarello was therefore "very skeptical and pessimistic" that claimant should be allowed to go back to work in the petrochemical industry. Dr. Muscarello did, however, note this was the only case of methylene chloride exposure he had seen in clinical practice and the information he obtained was from reading as opposed to actually treating multiple patients with this problem. He therefore provided claimant with the names of three hepatologists who might have seen more cases.

¶ 30 Dr. Muscarello further documented that claimant "apparently has a history of Crohn's disease although he is firmly denying this and reporting that he does not believe that he has the problem at all." Dr. Muscarello explained to claimant that the doctors at Loyola had more than just circumstantial evidence to concern themselves with this problem. Dr. Muscarello recommended a colonoscopy and MRI of the liver. Claimant, however, was not willing to undergo these tests.

¶ 31 On June 23, 2008, claimant returned to see Dr. Joshi regarding whether he should return to work in the petrochemical industry. At that time, Dr. Joshi reviewed the June 10, 2008, report from Dr. Muscarello and wrote a letter. In the letter, Dr. Joshi stated: "In a final analysis, I feel that [claimant] would be best advised not to return to petro chemicals. We do not have a

definitive test indicating that [claimant] has had injury to his liver from his exposure. However, prudency would dictate that he not return to that field of employment."

¶ 32 On March 24, 2010, claimant presented to Dr. Peter Orris, an occupational medicine specialist. Dr. Orris's report states that claimant was referred to him for an evaluation of the potential contribution of his exposure to organic solvents at work and his medical conditions. Dr. Orris noted that claimant's medical history was significant for diabetes mellitus type II, hepatitis with fatty infiltration by biopsy, Barrett's esophagus, and Crohn's disease. At the time of the evaluation, claimant was asymptomatic and was taking Metformin. Dr. Orris documented the following occupational history. From ages 18 to 25, claimant worked at a petroleum company doing lab cleanup. From ages 25 to 44, claimant worked for respondent as an inspector. Claimant left respondent's employ in 2003 when he became ill with hepatitis and diabetes. From ages 44 to 51, claimant worked in a taxi company doing sedentary office work. Dr. Orris indicated that claimant had extensive medical records and exposure records but had not brought them for review. Dr. Orris's findings on physical examination were unremarkable. Urine and blood chemistries were within normal limits with the exception of slightly elevated ALT. Dr. Orris directed claimant to return when he had his prior records.

¶ 33 Claimant returned to see Dr. Orris on June 23, 2010. After reviewing claimant's medical records, Dr. Orris summarized his findings as follows:

> "The records and additional history from the patient indicate that he worked for over 19 years for a contract company whose employees collected samples of large batches of chemicals of all types but often hydrocarbon solvents and transported them to the laboratory for testing. His job included the open ladeling [*sic*] of solutions into test bottles for transport to the lab. No respirators or other PPE [personal protective

equipment] were worn. Often the chemicals he was testing was Methylene Chloride but included other aromatic solvents as well as ethylene dichloride. His job title was inspector. This caused him to be exposed to these volatile chemicals for his entire shift. In October of 2001 he was found to have mildly [*sic*] liver enzyme elevation. On thorough evaluation by GI he was diagnosed to have fatty infiltration of the liver with some hepatomegaly. All evaluations for infectious, immunologic, and other causes of his inflammation of the liver were eliminated and these diagnoses were based on biopsy evidence.

He left his job and the exposures in the spring of 2003 and by October the fatty infiltration, liver enzyme elevation, and most of the hepatomegaly had resolved."

Dr. Orris's physical examination of claimant was again unremarkable, and claimant remained asymptomatic. Based on his examination of claimant and review of the medical records, Dr. Orris offered the following impression of claimant's condition:

"This patient has had a chemically induced NASH which included fatty infiltration of the liver, hepatomegaly and some inflammation. This prolonged volatile organic solvent exposure including methylene chloride, Tetrachloroethylene, and Ethylene Dichloride which amongst others caused his liver condition which resolved after exposure ceased. His Barrett's Espophagus and inflammatory bowel disease may well have been initiated or at least worsen [*sic*] by the swallowing of small amounts of these hydrocarbons over the years of his employment. Finally, though chlorinated hydrocarbons have been associated with the development of Type II Diabetes Mellitus, the role played in this by these exposures is more difficult to identify though it is certainly possible that these exposures contributed to his Diabetic diagnosis.

> He should not return to his former employment with its exposures to additional volatile hydrocarbons."

Claimant had no further medical treatment for his liver after June 23, 2010.

¶ 34 Claimant testified that after leaving respondent's employ, he has held various odd jobs, including a substitute teacher, deliveryman, limousine driver, and laborer. Claimant testified that he has never had to leave a job for "physical reasons." Claimant testified that since leaving respondent's employment, his conditions with regard to NASH, diabetes, and fatty liver have improved. Moreover, claimant testified that, although it took a couple of years, he has not had any recent problems with Crohn's disease.

¶ 35 The evidence deposition of Dr. Orris was taken on March 2, 2011, and admitted into evidence. In his testimony, Dr. Orris reiterated that the history he recorded was that claimant left his job in the spring of 2003 and, by October, the liver enzyme elevation and the fatty liver infiltration had essentially resolved and the increased size of the liver had been reduced. As of March 2010, Dr. Orris's primary diagnosis was chemically-induced, non-alcoholic steatohepatitis, which included fatty infiltration of the liver, hepatomegaly, and some inflammation. Dr. Orris also diagnosed Barrett's esophagus, inflammatory bowel disease, and diabetes, although he stated that he "did not look at those specifically."

¶ 36 Regarding the cause of claimant's fatty infiltration of the liver, Dr. Orris testified that it was multi-factorial, explaining:

> "The Diabetes Mellitus Type II, of course, predisposes and is a cause of fatty infiltration of the liver. In addition, his prolonged and chronic exposure to the hydrocarbons at work were a cause of the liver inflammation, fatty infiltration, and hepatitis. That would—yes, they were both causes. I was going to say that would appear to be the predominant cause,

> because after removal from exposure over a few months, the liver condition began to move back toward normality, but he was also being treated with Metformin at that period of time for his diabetes. So both of those treatments, removal from exposure and Metformin, would have reduced the likelihood of his developing this and would be considered treatment for the fatty infiltration, the inflammation, and the hepatitis."

With respect to the hepatomegaly, Dr. Orris felt that it was "secondary to the fatty infiltration and the inflammation, [and] the hepatitis that had developed due to these exposures and the diabetes." Dr. Orris testified that the liver-enzyme elevations are "a marker of the inflammation of the liver and, in [claimant's] situation, was secondary to the exposure and [claimant's] diabetes, producing the fatty infiltration and inflammation." Dr. Orris did not have an opinion to a reasonable degree of medical certainty as to the cause of the Barrett's esophagus, noting that this condition will develop in a number of situations. He stated that chronic irritation is one of the causes, and the swallowing of hydrocarbons, secondary to their inhalation could have contributed to Barrett's esophagus. However, he was "less sure of the etiology in relationship with the hydrocarbons in this situation." Dr. Orris made a similar statement about claimant's irritable-bowel syndrome. Dr. Orris was unable to state with a reasonable degree of medical certainty the cause of claimant's diabetes, explaining that "[c]holorinated hydrocarbons are known to be associated, but whether they were in this situation, I wouldn't be able to say on a more likely than not basis." Dr. Orris was then asked whether claimant could return to his position as a chemical inspector. Dr. Orris responded that he would not have him go back to "this employment and exposure" as doing so would result in claimant "redevelop[ing] the same thing again. This is a direct toxic effect of the exposures, and that's the problem." Dr. Orris

stated that his opinions were based upon his physical examination of claimant, the history documented, and a review of the medical records.

¶ 37 On cross-examination, Dr. Orris testified it was his impression from what claimant related that he was exposed to chemicals "on an everyday, every-other-day basis," although he had not seen any objective evidence of the actual exposure to any chemicals. Dr. Orris was also unaware of any objective measures of the time claimant spent in the laboratory versus the time spent outside of the laboratory. When asked how many samples claimant would ladle over a given period, Dr. Orris testified that he did not have any quantification but he was "aware that this was a regular activity and his primary responsibility in the plant," with "regular" equating to on a daily basis. Dr. Orris also admitted that he did not have any independent evidence about what chemicals were present, only claimant's report that there were potentially two, methylene chloride and ethylene dichloride. Dr. Orris testified that he had never been to the laboratory where claimant worked, he had not seen any pictures of the laboratory, and he did not interview anyone other than claimant about what the laboratory or plant looked like. Dr. Orris added that his knowledge of the ventilation system was based solely on what claimant told him.

¶ 38 Dr. Orris also explained the significance of taking a history of the patient and the patient's condition. Dr. Orris stated that 80% of the diagnosis is based on the history from the patient. This is followed by trying to understand more about the workplace, the potential exposures from the patient himself, the clinical course of the disease, and objective evidence from the patient's physicians confirming the history of the disease and its clinical course. Dr. Orris then confirmed that claimant was the sole source of information about the workplace and the history of exposure. As to the information recorded in his report, specifically the dates

claimant left his employment and had improvement in his condition, the following colloquy took place:

> "Q [Respondent's attorney]. Okay. Now, you write here that [claimant] left his job in the spring of 2003, is that correct?
>
> A [Dr. Orris]. Correct.
>
> Q. Are you sure?
>
> A. That's what I was told, and that's what I wrote down.
>
> Q. And that by October, the fatty infiltration, liver enzyme elevation, and most of the—can I just say enlargement of the liver? Is that accurate?
>
> A. Yes, sir.
>
> Q. It had resolved?
>
> A. Yes, sir."

Dr. Orris then acknowledged a list of conditions that cause elevated liver enzymes: adrenal insufficiency, alcohol consumption, alpha 1 antitrypsin deficiency, autoimmune hepatitis, primary sclerosing cholangitis, biliary tract obstruction, infections, Crohn's disease, diabetes, certain muscular disorders, excessive use of certain herbal supplements, hemochromatosis, Wilson's disease, NASH, high triglycerides, liver cancer, certain medications, obesity, circulatory system collapse, thyroid problems, hepatitis A, hepatitis B, and hepatitis C. Dr. Orris stated that most of the foregoing causes were ruled out by the gastroenterological evaluation, though he conceded that claimant does have Crohn's disease, diabetes, and NASH.

¶ 39 Dr. Orris explained that NASH is part of a spectrum of non-alcoholic fatty liver disease. Steatosis is the initial stage, then NASH, and it culminates with cryptogenic cirrhosis. Dr. Orris testified that the most common causes of fat in the liver include diabetes, obesity, exposure to

alcohol, and exposure to hydrocarbons. Dr. Orris testified that fatty infiltration spectrum is one of the most common diseases of the liver in the United States and that alcohol use and obesity, two of the known causes of the condition, are a very substantial problem in the United States. Dr. Orris acknowledged that in 2001, claimant's body-mass index was bordering on obese and that in 2003, claimant was diagnosed with diabetes. Dr. Orris then reiterated that diabetes can be a cause of elevated liver enzymes, liver damage, and fatty liver. Dr. Orris also acknowledged that the 2005 ultrasound of claimant's liver indicated the continued presence of fatty infiltration.

¶ 40 Claimant offered into evidence a "Citation and Notification of Penalty" issued against respondent on January 30, 2002, by the United States Department of Labor Occupational Safety and Health Administration (OSHA) and reflecting inspection dates from December 11, 2001, through January 18, 2002. The citation was issued in response to a complaint filed by claimant. The citation cited respondent for (1) not providing an adequate eye-wash station, (2) failing to set forth in writing respondent's hazard assessment for personal protective equipment, (3) failing to develop and implement a written respiratory protection program, (4) failing to conduct initial exposure monitoring to methylene chloride, (5) failing to develop, implement, and maintain a written hazard communication program for employees working with hazardous chemicals, and (6) failing to provide employees with information and training on hazardous chemicals. An OSHA letter dated February 11, 2002, noted that air sampling at respondent's facility on January 17, 2002, showed methylene chloride results of 14 parts per million (PPM), which is below OSHA permissible levels of 25 PPM and no detectible levels of perchloroethylene.

¶ 41 Claimant acknowledged that OSHA testing found that the levels of methylene chloride were within what OSHA considers safe exposure. However, he stated that this was "only in specific locations that [respondent] directed OSHA to go to." Claimant stated that the OSHA

testing did not occur near the time of his last exposure or under the similar conditions to what he had been working in. Claimant explained that the OSHA testing occurred six months after he ceased working for respondent and the testing was done in the winter. Claimant noted that his injury occurred during the summer and stated that chemicals are much more volatile in the heat.

¶ 42 Based on the foregoing evidence, the arbitrator determined that claimant experienced an occupational exposure arising out of and in the course of his employment with respondent. However, the arbitrator found that claimant failed to prove by a preponderance of the credible evidence that his conditions of ill-being, *i.e.*, liver-function abnormalities (variously diagnosed as NASH, hepatomegaly, liver-enzyme elevation, and fatty liver infiltration), Barrett's esophagus, Crohn's disease, and diabetes, are causally related to said exposure. The arbitrator found it "less than clear" how the alleged conditions of Barrett's esophagus and Crohn's disease were diagnosed. The arbitrator noted that Dr. Orris did not specifically look at those conditions and conceded that he was "less sure of the etiology in relationship with the hydrocarbons in this situation." Additionally, the arbitrator noted that the record merely contained "second-hand references" to Barrett's esophagus and Crohn's disease from most of the other physicians. Moreover, while Dr. Van Thiel diagnosed claimant with mild-to-moderate reflux esophagitis, Crohn's disease, diabetes, and fatty liver, he did not offer an opinion whether these conditions were causally related to the occupational exposure in question. Similarly, Dr. Gavron, the ear, nose, and throat specialist claimant consulted, did not reference a diagnosis of Barrett's esophagus. Instead, he only recommended that claimant undergo speech therapy for hoarseness, which he attributed to GERD. The arbitrator also noted that claimant adamantly denied that he had Crohn's disease during his consultation with Dr. Muscarello.

¶ 43 The arbitrator determined that even if claimant does suffer from both Barrett's esophagus and Crohn's disease, he failed to prove by a preponderance of the credible evidence that the two conditions had their origin in a risk connected with his employment. In this regard, the arbitrator noted that approximately two to three years elapsed between claimant's last day of exposure and "the slightest indication" that he suffered from either of those conditions. Moreover, other than the opinion of Dr. Orris, no medical opinion was offered into evidence that linked the two conditions to the exposure. Dr. Orris admitted that he did not look at those conditions specifically and therefore was less sure of the etiology in relationship with the hydrocarbons in this situation.

¶ 44 The arbitrator also found that there was no evidence to support a finding that claimant's diabetes had its origin in or was aggravated by the workplace exposure. The arbitrator pointed out that even Dr. Orris did not offer an opinion along these lines, other than to note that diabetes, along with Crohn's disease and obesity, can cause elevated liver enzymes and fatty liver.

¶ 45 Finally, the arbitrator noted that only one physician, Dr. Orris, offered an opinion in support of claimant's contention that his liver-function abnormalities were causally related to his chemical exposure while working for respondent. The other physicians were unsure of the etiology of claimant's liver-function abnormalities. For instance, Dr. Joshi noted that both the consulting physicians to whom he had referred claimant agreed that "the etiology of this elevation of the liver function tests is obscure" and that "it is not clear whether exposure to chemicals at work is a likely cause of this problem." Likewise, Dr. Muscarello, noting that claimant's liver-function abnormalities were "very modest," doubted that claimant's exposure to methylene chloride would have caused his right-flank pain. Moreover, neither Dr. Van Thiel,

Dr. Gavron, nor Dr. Oyama offered an opinion linking claimant's liver-function abnormalities to his chemical exposure.

¶ 46 The arbitrator was not persuaded by the opinion of Dr. Orris. The arbitrator noted that Dr. Orris saw claimant on only two occasions and offered no treatment. In addition, the arbitrator found that Dr. Orris's opinion was based on an inaccurate history involving the cessation of the workplace exposure. As the arbitrator explained:

> "Dr. Orris' opinion appears to be premised on the fact that once [claimant] was removed from the workplace exposure, his symptoms immediately abated. This, of course, was not the case, given that [claimant's] last day of exposure was on August 9, 2001, not the spring of 2003, and a CT scan of the abdomen and pelvis performed more than two *** years later, on October 18, 2003, revealed persistent mild hepatomegaly with interval resolution of fatty infiltration of the liver. Later still, an ultrasound of the liver performed on March 9, 2005, demonstrated increased echogenicity of the liver suggestive of diffuse parenchymal disease or fatty infiltration. Thus, it would appear that Dr. Orris' attempt to relate [claimant's] liver condition to the workplace exposure by pointing to the resolution of the findings immediately after removal from the source hazard is misplaced."

The arbitrator added that Dr. Orris's opinion was not being discounted for the reason that other potential causes exist for the liver-function abnormalities. Instead, the arbitrator viewed the matter simply as a failure of proof in that the only opinion offered in support of a finding of causation was that of Dr. Orris, and his opinion was based on a significant misunderstanding as to the duration and cessation of the workplace exposure.

¶ 47 The Commission unanimously affirmed and adopted the decision of the arbitrator in its entirety. On judicial review, the circuit court of Cook County confirmed the decision of the Commission. This appeal by claimant followed.

¶ 48 III. ANALYSIS

¶ 49 On appeal, claimant contends that the Commission's finding that his conditions of ill-being are not causally related to his exposure to chemicals while working for respondent is against the manifest weight of the evidence.

¶ 50 To recover compensation under the Act, a claimant must prove both that he suffers from an occupational disease and that a causal connection exists between the disease and his employment. *Anderson v. Industrial Comm'n*, 321 Ill. App. 3d 463, 467 (2001). An occupational activity need not be the sole or principal causative factor, as long as it was a causative factor in the resulting condition of ill-being. *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 205 (2003); *Freeman United Coal Mining Co. v. Industrial Comm'n*, 308 Ill. App. 3d 578, 586 (1999). The existence of a relationship between an individual's employment and his or her injury is a question of fact. *Bernardoni v. Industrial Comm'n*, 362 Ill. App. 3d 582, 597 (2005); *Freeman United Coal Mining Co. v. Industrial Comm'n*, 317 Ill. App. 3d 497, 504 (2000). It is the function of the Commission to decide questions of fact, judge the credibility of witnesses, and resolve conflicting evidence. *Hosteny v. Illinois Workers' Compensation Comm'n*, 397 Ill. App. 3d 665, 674 (2009). This is especially true with respect to medical issues, where we owe heightened deference to the Commission due to the expertise it possesses in the medical arena. *Long v. Industrial Comm'n*, 76 Ill. 2d 561, 566 (1979). We cannot reject or disregard permissible inferences drawn by the Commission simply because different or conflicting inferences may also reasonably be drawn from the same facts, nor can we substitute

our judgment for that of the Commission on such matters unless its findings are contrary to the manifest weight of the evidence. *Zion-Benton Township High School District 126 v. Industrial Comm'n*, 242 Ill. App. 3d 109, 113 (1993). A decision is contrary to the manifest weight of the evidence only if an opposite conclusion is clearly apparent. *Elgin Board of Education School District U-46 v. Illinois Workers' Compensation Comm'n*, 409 Ill. App. 3d 943, 949 (2011).

¶ 51 Relying principally upon the opinion of Dr. Orris, claimant argues that his exposure to volatile hydrocarbons over the course of his employment with respondent for 40 or more hours per week over 10 consecutive years, caused him to develop abnormalities of the liver, including fatty infiltration, hepatomegaly, elevated liver enzymes, and hepatitis, such that he cannot return to his former employment in the petrochemical industry. Claimant further contends that even if his ailments were not directly caused by his employment with respondent, they were at least aggravated by his occupational exposure to volatile hydrocarbons, particularly methylene chloride. We disagree and find that the Commission's finding that claimant failed to prove that his current conditions of ill-being are causally related to his occupational exposure to chemicals was not against the manifest weight of the evidence.

¶ 52 Dr. Orris evaluated claimant twice, on March 20 and June 23, 2003. As part of the evaluations, Dr. Orris obtained claimant's occupational and medical history, conducted a physical examination, and reviewed claimant's medical records. With respect to claimant's liver problems, Dr. Orris diagnosed chemically-induced NASH, which included fatty infiltration of the liver, hepatomegaly, and some inflammation. Dr. Orris found that the causes of claimant's liver abnormalities were multi-factorial, with one of the causes being claimant's exposure to hydrocarbons while working for respondent. Although Dr. Orris based his opinion in part on his physical examination of claimant and his review of claimant's medical records, he placed a great

deal of weight on the occupational and medical history he obtained. Dr. Orris explained that the patient's history "is a very important part of arriving at a medical diagnosis." He added that "[i]t is often said that 80% of diagnosis [*sic*] is based on the history from the individual patients, so that's what we did here in some depth."

¶ 53 As the Commission found, however, Dr. Orris possessed an inaccurate history regarding claimant's occupational exposure. First, Dr. Orris's information regarding claimant's length of employment with respondent and the date claimant stopped working for respondent was incorrect. Dr. Orris documented that claimant worked for respondent for over 19 years, with his last day of employment in the spring of 2003. When asked at his deposition whether this history was accurate, Dr. Orris responded, "[t]hat's what I was told, and that's what I wrote down." Yet, claimant himself testified that he worked for respondent for only 10 years, between 1991 and August 9, 2001. Hence, the history of employment relied upon by Dr. Orris is not supported by claimant's testimony.

¶ 54 Second, Dr. Orris's inaccurate occupational history calls into question the basis for his medical opinion. Dr. Orris testified that the causes of claimant's liver abnormalities were multi-factorial, with one of the causes being claimant's exposure to hydrocarbons while working for respondent. Dr. Orris reached this conclusion based on his belief that claimant left his job in spring 2003 and his finding that, by October of 2003, the liver-enzyme elevation and the fatty liver infiltration had essentially resolved and the size of claimant's liver had been reduced. As noted above, Dr. Orris's belief as to when claimant left respondent's employment was incorrect. Further, as the Commission determined Dr. Orris's finding that claimant's liver symptoms had almost completely resolved was inaccurate. Claimant sought treatment from multiple physicians and medical providers between August 2001 and June 2010. During this time, claimant

underwent multiple diagnostic tests and blood work due to his complaints of liver and abdominal problems. Testing performed in August 2001, shortly after claimant left respondent's employment, showed elevated liver enzymes. An ultrasound of the liver taken that same month revealed diffuse fatty infiltration of the liver. A CT scan and ultrasound of the liver taken on March 5, 2003, was also consistent with fatty liver. A liver biopsy taken in April 2003 showed fibrosis and steatosis. A CT scan taken on October 18, 2003, revealed mild persistent hepatomegaly with interval resolution of fatty infiltration of the liver. An ultrasound of the liver taken on March 9, 2005, showed "increased echogenicity of the liver suggestive of diffuse parenchymal disease or fatty infiltration." As the Commission found, the foregoing evidence contradicts Dr. Orris's finding that by October 2003, claimant's liver symptoms had almost completely resolved shortly after he left respondent's employment. To the contrary, claimant continued to have objective liver problems through March 2005, almost four years after he left respondent's employ.

¶ 55 Additionally, no other physician directly related claimant's liver conditions to his exposure to chemicals in the workplace. In a letter dated December 14, 2001, Dr. Joshi recounted that claimant had recently been evaluated by a gastroenterologist and an environmental physician, both of whom agreed that "the etiology of the liver function tests is obscure." At that time, Dr. Joshi opined that "it is not clear whether exposure to chemicals at work is a likely cause of this problem." Dr. Joshi reiterated this opinion on July 23, 2008, when claimant requested his opinion regarding his ability to return to work in the petrochemical industry. Dr. Joshi wrote: "In a final analysis, I feel that [claimant] would be best advised not to return to petro chemicals. *We do not have a definitive test indicating that he has had injury to his liver from his exposure*. However, prudency would dictate that he not return to that field of

employment." (Emphasis added.) Similarly, while Dr. Muscarello stated in October 2001 that he could not rule out the possibility of claimant's liver-function abnormalities being caused by chemical exposure, he identified various other potential causes, including obesity, "muscle burn," hepatitis C, autoimmune hepatitis, hemochromatosis, or Wilson's disease. Dr. Muscarello re-evaluated claimant seven years later regarding his suitability to return to work in the petro-chemical industry. At that time, claimant told Dr. Muscarello that his "biggest exposure" while working for respondent was with methylene chloride. Although Dr. Muscarello recommended that claimant refrain from returning to his previous field of employment, he offered no opinion regarding causation between claimant's symptoms and his exposure to methylene chloride while working for respondent. Instead, Dr. Muscarello provided claimant with the names of three hepatologists as the only information he had regarding methylene chlorine exposure was from reading.

¶ 56 Claimant acknowledges that the radiological studies performed in 2003 and 2005 showed objective evidence of liver abnormalities. He attributes this to the fact that he was exposed over a 10-year period of time and suggests that "the objective ill-effects on the liver may take time to dissipate." However, claimant offered no medical opinion to support this claim. Indeed, Dr. Orris's opinion that claimant's liver problems almost completely resolved just months after he left respondent's employment suggests that the ill-effects to the liver can dissipate shortly after the last exposure.

¶ 57 Claimant also argues that the Commission failed to take into account his own subjective symptomatology after he stopped working. Claimant notes, for instance, that he told Dr. Muscarello in October 2001 that he felt nearly 100% improvement in his symptoms since leaving respondent's employ. However, the objective testing showed fatty infiltration of the liver. Thus,

the evidence was conflicting regarding whether claimant's condition had improved. Further, Dr. Muscarello noted that claimant's focus was "justification for quitting his employment on the theory that chemical exposure caused liver disease." This statement, in conjunction with the objective medical findings, could have persuaded the Commission that claimant was not believable regarding his subjective symptoms. As noted above, it is the function of the Commission to resolve conflicts in the evidence and judge the credibility of the witnesses. *Hosteny*, 397 Ill. App. 3d at 674.

¶ 58 Claimant also notes that OSHA provides literature regarding liver toxicity concerns due to exposure to methylene chloride and also provides regulatory guidelines. Claimant asserts that these regulatory guidelines provide that employees exposed to methylene chloride are at increased risk of developing cancer and adverse effects on the heart, central nervous system, and liver. Claimant urges this court to "take notice that a reasonable person would infer that the levels of Methylene Chloride were, at times, above the OSHA actionable level" since IMTT employees in the same terminal wore respirators while working. Respondent does not dispute that methylene chloride is a potentially toxic chemical that may cause illness in humans at certain exposure levels. It notes, however, that the only evidence offered by claimant shows that it complied with the OSHA standards. We agree with respondent.

¶ 59 In particular, claimant offered into evidence an OSHA letter dated February 11, 2002, noted that air sampling at respondent's facility on January 17, 2002, showed methylene chloride results of 14 parts per million (PPM), which is below OSHA permissible levels of 25 PPM and no detectible levels of perchloroethylene. Claimant responds that his injury occurred during the summer and stated that chemicals are much more volatile in the heat. However, other than his own testimony, claimant offered no evidence in support of this claim.

¶ 60 Claimant also argues that respondent cannot claim that there is no evidence of a direct causal connection between his injuries and the level of exposure to methylene chloride because he was neither privy to nor provided respondent's "required inspections logs." At the arbitration hearing, claimant offered into evidence a subpoena sent to respondent requesting "[a]ny and all workplace exposure monitoring or measuring reults *[sic*]" performed by respondent, OSHA, or IMTT at the facility where claimant worked. Claimant also requested a "certification of hazard assessment" when no monitoring is required. Claimant contends that he was not provided with such information. As such, claimant argues that the evidence "can be inferred to be adversarial against [respondent]." See *Liquid Transport v. Wakeland*, 2014 IL App (5th) 130137WC, ¶¶ 31-35. Even if we interpret this evidence against respondent, claimant does not explain how it establishes a causal connection between his conditions of ill-being and his occupational exposure given the inaccuracies in Dr. Orris's testimony and the failure to cite any other medical testimony in support of causation.

¶ 61 Claimant only briefly touches upon whether his other conditions of ill-being (Barrett's Esophagus, Crohn's disease, and diabetes) are causally related to his occupational exposure to chemicals. We need look no further than the testimony of Dr. Orris to reject any causal connection. While Dr. Orris stated that the inhalation of chemicals could have contributed to claimant's diagnoses of Barrett's esophagus and Crohn's disease, he did not have an opinion to a reasonable degree of medical certainty. Similarly, Dr. Orris was unable to state with a reasonable degree of medical certainty the cause of claimant's diabetes.

¶ 62 Claimant directs us to various cases in support of his argument for reversal. We do not find any of the cases persuasive. In *E.R. Moore & Co. v. Industrial Comm'n*, 71 Ill. 2d 353 (1978), the claimant developed a rash after being splashed by petrochloroethylene, a dry-

cleaning solution, while working as a garment presser. The claimant sought medical assistance and made several attempts to return to work after the rash cleared. On each occasion, however, the rash either reappeared or she experienced renewed discomfort. As a result, claimant was unable to return to work. The Commission awarded claimant total and permanent disability benefits, but the circuit court reversed. On appeal, the issues before the supreme court concerned the nature and extent of the claimant's medical disability and her entitlement to total and permanent disability benefits. *E.R. Moore Co.*, 71 Ill. 2d at 359-64. The court discussed the requirements for establishing permanent total disability benefits, specifically the claimant's age, experience, training, and capabilities, as well as the burden shifting to the employer regarding the requirements to show available employment. *E.R. Moore Co.*, 71 Ill. 2d at 362-63. Notably, however, the court in *E.R. Moore Co.* did not address whether the claimant's current condition of ill-being was causally related to her industrial accident as that issue was not disputed. Hence, the claimant's reliance on *E.R. Moore Co.* is not well taken.

¶ 63 In *Fitts v. Industrial Comm'n*, 172 Ill. App. 3d 393 (1996), the claimant worked as an underground coal miner for nearly 20 years. The claimant also smoked for more than 30 years. After leaving his employment as a coal miner due to shortness of breath, the claimant sought workers' compensation benefits. The Commission determined that the claimant's exposure to coal dust temporarily aggravated his smoking-induced emphysema and asthma. As such, the Commission granted the claimant a permanent partial disability award of 22½%. On appeal, the claimant argued that the Commission improperly apportioned the award between the disability caused by his exposure to coal dust and the disability caused by his years of cigarette smoking. The supreme court agreed that the apportionment of an award between the employment and the non-employment causes of the disability was improper. *Fitts*, 172 Ill. 2d at 309. The court

further held, however, that "employment exposure that only temporarily aggravates a claimant's ailment lacks the causal connection necessary to support a permanent disability award." *Fitts*, 172 Ill. 2d at 310. The court stated that if the aggravation was only temporary, the Commission should have awarded temporary total disability benefits to the extent of the claimant's disability. *Fitts*, 172 Ill. 2d at 310.

¶ 64 Claimant notes that three of his doctors agreed that his diseases of the liver, hepatitis, and diabetes cause him to be "hypersensitive" to volatile hydrocarbons, such that a return to working with such chemicals would aggravate his diseases and should be avoided. Hence, claimant insists that this case is "directly in line" with *Fitts* "where a non-occupational disease of asthma and emphysema precluded the [claimant] from returning to his former employment as it would aggravate his non-occupational diseases." We find claimant's reliance on *Fitts* misplaced because the *Fitts* court did not address the issue of causation.

¶ 65 Claimant also directs us to *Tolbert v. Illinois Workers' Compensation Comm'n*, 2014 IL App (4th) 130523WC. In that case, the respondent operated grain elevators. The claimant's duties involved cleaning and maintaining grain flats, elevators, and bins. The work environment exposed the claimant to significant airborne dust and bird feces. The claimant quit his job after he began to experience respiratory problems. The claimant was subsequently diagnosed with histoplasmosis, a lung condition caused by a fungus usually associated with bird droppings. The arbitrator found that while the claimant may have been exposed to a fungus that causes histoplasmosis during his work for the respondent, he failed to prove that his conditions of ill-being were causally related to this exposure. The Commission affirmed and adopted the arbitrator's decision, with the additional finding that the claimant failed to prove that he was

exposed to histoplasmosis at his workplace. The circuit court confirmed the decision of the Commission.

¶ 66 On appeal, this court reversed. Notably, we found the evidence presented at the arbitration hearing established the presence of airborne dust containing dried bird feces within the claimant's work environment and that dust containing bird feces is a cause of histoplasmosis. *Tolbert*, 2014 IL App (4th) 130523WC, ¶ 41. We noted that in finding that the claimant failed to prove that he was exposed to histoplasmosis-causing fungus at his workplace, the Commission relied on the report of Dr. Charles Bruyntjens, but misquoted a crucial portion of the report. *Tolbert*, 2014 IL App (4th) 130523WC, ¶¶ 44-47. We also found that Dr. Bruyntjens's report was incomplete, thereby rendering his opinion vague and imprecise, and that, in any event, it did not contradict other medical opinions or other evidence establishing accident. *Tolbert*, 2014 IL App (4th) 130523WC, ¶¶ 45, 48. Similarly, in rejecting the finding that the claimant failed to establish causation, we found that the reliance on Dr. Bruyntjens's report was misplaced given the vague and confusing nature of the opinions in his report. *Tolbert*, 2014 IL App (4th) 130523WC, ¶¶ 56-62. Significantly, we noted that Dr. Bruyntjens did not expressly opine that the claimant's conditions of ill-being were unrelated to his workplace exposure to fungus and he did not offer a specific opinion about a possible alternative cause to the claimant's conditions of ill-being. *Tolbert*, 2014 IL App (4th) 130523WC, ¶¶ 56, 58. Here in contrast, respondent offered a coherent medical opinion that claimant's current conditions of ill-being could have been caused by a source other than his exposure to chemicals while in respondent's employ. Moreover, the medical opinion relied upon by claimant was premised on an inaccurate history of chemical exposure. Accordingly, *Tolbert* is distinguishable, and claimant's reliance on that case

does not compel a finding that the Commission's decision to the contrary was against the manifest weight of the evidence.

¶ 67 IV. CONCLUSION

¶ 68 In short, the Commission's conclusion that claimant failed to establish that his current conditions of ill-being are causally connected to his occupational exposure to chemicals was not against the manifest weight of the evidence where the physician relied on by claimant in support of his theory possessed an inaccurate history regarding claimant's occupational exposure and no other physician directly related claimant's conditions of ill-being to claimant's exposure to chemicals in the workplace. Because a conclusion opposite that of the Commission is not clearly apparent, we affirm the judgment of the circuit court of Cook County which confirmed the decision of the Commission.

¶ 69 Affirmed.