

2017 IL App (2d) 170123WC-U
No. 2-17-0123WC
Order filed December 22, 2017

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

DAVID VERNETTI,)	Appeal from the Circuit Court
)	of Winnebago County.
Appellant,)	
)	
v.)	No. 16-MR-683
)	
THE ILLINOIS WORKERS')	
COMPENSATION COMMISSION, et al.,)	Honorable
)	J. Edward Prochaska,
(Verizon Wireless, Appellee).)	Judge, Presiding.

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

ORDER

¶ 1 *Held:* The Commission's finding that claimant failed to establish that his condition of ill-being (mental trauma allegedly related to an armed robbery that occurred while he was at work) was causally related to his employment was not against the manifest weight of the evidence where the Commission's decision rested on the credibility of claimant's testimony, the Commission's assessment of the evidence, and the resolution of conflicts in the medical evidence regarding the relationship between claimant's mental trauma and his employment.

¶ 2 Claimant, David Verneti, filed an application for adjustment of claim seeking benefits under the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2012)) for a condition of ill-being (mental trauma) allegedly related to an armed robbery that occurred while he was working for respondent, Verizon Wireless. Following a hearing, an arbitrator found claimant's injury compensable and awarded him benefits under the Act. The Illinois Workers' Compensation Commission (Commission) reversed the decision of the arbitrator, finding that claimant failed to prove by a preponderance of the evidence that his current condition of ill-being was causally related to his employment with respondent. On judicial review, the circuit court of Winnebago County confirmed the decision of the Commission. Claimant now appeals, contending that the Commission's finding that he failed to establish a causal relationship between his current condition of ill-being and his employment was against the manifest weight of the evidence. We affirm as modified.

¶ 3 I. BACKGROUND

¶ 4 At the June 15, 2015, arbitration hearing, claimant, then 36 years old, related that he began working as a retail sales consultant at respondent's store in Belvidere on December 1, 2012. Claimant testified that sometime between 7 and 7:30 p.m. on March 15, 2013, a man came into the store asking about cell phones. The store was busy at the time, so the man left to get something to eat. The man returned shortly later with two other men. Claimant noted that the three men were African American and one of the men was wearing a hoodie. A couple of minutes later, one of the men announced a robbery, pulled out a gun, and began waving it around. The robbers instructed everyone to go to the back of the store and lay on the floor. They then forced each person to empty his or her pockets, after which the robbers smashed everyone's cell phone. According to claimant, the robbers then ordered him and Jared (the store manager) to

open the inventory room. The robbers gave claimant and Jared duffel bags and instructed them what to put inside. Once the bags were filled, claimant and Jared carried the bags to the rear of the store where the robbers had a car waiting. Claimant testified that although the robbers did not hit him or Jared with a gun, they “kept pointing them in the back of our head [*sic*], pushing them in the back of our head [*sic*], saying you’re not going fast enough.” After the merchandise was taken to the car, the robbers locked everyone in the store’s bathrooms and left. Once claimant heard the bell that sounded when the store’s door is opened, he and the others exited the bathrooms. Claimant then called 911 on his own phone.

¶ 5 Claimant testified that in addition to the March 2013 event, he had experienced other traumatic events in his life. He related that when he was 19 years old, he was shot in both arms during a robbery while working as a pizza delivery driver. Regarding the circumstances of the shooting, claimant testified that a man ran up to his car and asked for money. Thinking it was a joke, claimant laughed. The man then shot claimant and asked him “if that was funny.” Claimant testified that he had nightmares following the incident, but received a couple of years of psychiatric care that ameliorated his condition. The hospital records of the shooting indicate that claimant was the victim of a drive-by shooting. Specifically, the records provide that claimant “was a passenger of the car when he was shot by an assailant of another car.”

¶ 6 Claimant testified that he was also involved in a motor-vehicle accident in 2005 while a passenger in a car driven by his best friend. According to claimant, the accident occurred when an automobile hit the front end of the vehicle in which he was traveling. The vehicle then fish tailed and flipped six or seven times. Claimant testified that it was raining at the time of the accident and his friend died in the collision. The police report of the accident indicates that the crash was a single-vehicle accident, the weather was clear, and the road surface was dry.

According to the report, the accident occurred when the vehicle in which claimant was traveling lost control and rolled over. The report further indicates that at the time of the crash, the driver of the vehicle was exceeding the posted speed limit and was under the influence of medicine, drugs, or alcohol. Claimant testified that he experienced nightmares and depression after the car accident. However, claimant was in the Navy at the time and the Navy provided psychiatric care through January 2006. Claimant testified that with this treatment, his symptoms resolved and he was doing well between 2006 and 2013. Although he would experience an occasional nightmare when something would remind him of his friend, he did not have any ongoing symptoms of anxiety or depression.

¶ 7 Claimant testified that he did not immediately seek treatment after the March 15, 2013, robbery. He attempted to return to work two days later, but after about 10 minutes at the store he had a panic attack and could not breathe. The store manager allowed claimant to go home. Thereafter, claimant took off approximately two weeks of work. During his time off, claimant was anxious, had trouble sleeping, and experienced nightmares. Although claimant testified that he did not seek treatment during this time off, the record reflects that claimant presented to Rockford Health Physicians on March 18, 2013, where he saw Dr. Ian Schermer. At that time, claimant provided a history of various conditions, including anxiety, attention deficit disorder with hyperactivity (ADHD), and heartburn. Claimant's records reflect that he had been taking Wellbutrin and Nexium starting in May 2012, but those medications had been discontinued on March 18, 2013. Claimant reported current symptoms of anxiety and insomnia which he attributed to a robbery the previous Friday at the store where he worked during which he was held at gunpoint. Claimant was diagnosed with anxiety, prescribed Klonopin, and advised to seek counseling.

¶ 8 Meanwhile, at claimant's request, he was transferred to respondent's location in Rockford. Despite the transfer, claimant testified that he continued to experience symptoms related to the robbery, including panic attacks. Claimant related that he would "freak out" when approached by African-American males or people wearing hoodies and would often retreat to the back of the store. To cope with his symptoms, claimant turned to drugs and alcohol. Claimant explained that he began to drink to numb his emotions. However, he was then too tired or drunk to work, so he began using cocaine to increase his energy. Claimant testified that he sought counseling, but the counseling sessions were during his work hours and respondent would not allow him the time off to attend. Claimant acknowledged that he had previously been a social drinker and occasionally smoked marijuana, but stated that his use did not affect his life.

¶ 9 On July 10, 2013, claimant presented to Rosecrance Treatment Centers (Rosecrance). The records from Rosecrance reflect that claimant contacted the facility by telephone to seek treatment for binge drinking and cocaine use. Claimant reported that these substances had been an issue for him for one year. Claimant further reported that his use of alcohol and drugs had caused work absences, driving under the influence, excessive gambling, and family discord. Claimant denied any history of mental illness or treatment. He listed stress at work, family discord, and financial difficulties as precipitating events. Claimant provided a history of alcohol use starting at age 19. By age 24, while claimant was in the military, he drank five to six beers five to six days a week. Claimant quit drinking for two years after receiving a DUI in 2005. However, at age 28 he began drinking five to seven drinks four to five times a week. Claimant reported that for the year and a half prior to his call, he was drinking ½ a fifth of whiskey three to four times a week. Claimant also reported that when he drank, he used cocaine. Claimant stated that he began using cocaine at the age of 27. Claimant documented using less than one gram

about three times a week over the last year and a half. Claimant added that when he drank and used cocaine, he gambled and had blackouts. Claimant reported that he last drank and used cocaine on July 8, 2013.

¶ 10 Claimant further provided Rosecrance with a family history of alcohol and drug problems as well as depression and bipolar disorder. He also noted that he had been prescribed Ritalin in the past and had been shot in 1997 for “being in the wrong place at the wrong time.” The Rosecrance staff member who spoke with claimant diagnosed alcohol dependence, cocaine dependence, and ADHD and recommended intensive outpatient treatment.

¶ 11 On July 19, 2013, claimant reported to Rosecrance for an evaluation. At that time, claimant stated that he was employed by respondent as a sales manager. The record describes the robbery in Belvidere on March 15, 2013, and states that claimant was “severely beaten.” The record indicates that the robbery resulted in depression, chemical dependence, and the loss of \$5,000 over the past couple of months. Claimant reported that he last used marijuana, cocaine, and alcohol on July 16, 2013. Claimant stated that he gambles and uses alcohol to escape from his post-traumatic stress disorder (PTSD), but the gambling has caused financial distress. The Rosecrance staff member found that claimant “appears to be at a preparation stage for recovery,” and an intensive outpatient program was again recommended. In addition, claimant was referred to Aspen Counseling to address symptoms of PTSD.

¶ 12 Claimant was scheduled to start group counseling at Rosecrance on July 22, 2013, but did not show up. Claimant did attend group counseling on July 23, July 25, and July 29, 2013, but missed five other sessions. Claimant was discharged from Rosecrance on August 9, 2013, and again referred to Aspen Counseling for issues of PTSD. Claimant testified that he never sought treatment at Aspen Counseling due to insurance issues.

¶ 13 In August 2013, claimant requested paternity leave as his wife had given birth to a premature baby. On September 20, 2013, he completed a leave-of-absence application to request additional time off through December 1, 2013, for “child care.” Claimant testified that during his time off, he was able to obtain “the free help [he] could find.” Claimant attended Alcoholics Anonymous (AA) meetings and became involved in a church group that he considered therapeutic. Claimant testified that although all of his symptoms did not resolve, they “definitely decreased” and his nightmares subsided. Claimant never returned to work for respondent, and, as he was unable to secure additional treatment, he filed his workers’ compensation claim on November 1, 2013.

¶ 14 Claimant testified that respondent never authorized treatment for him, so on November 3, 2014, he presented to a Veterans Administration (VA) facility. The report of that visit states that at the age of 17, “claimant was at a fast food restaurant where a fight ensued, going to his car as an innocent bystander and trying to avoid the malay [*sic*], he was caught in the crossfire and shot 6 times.” Claimant subsequently enlisted in the Navy. The report also references the 2005 motor-vehicle accident, providing that claimant was hit by an oncoming vehicle and rolled his car seven times, decapitating his good friend, who was a passenger. Following the car accident, claimant began abusing alcohol and drugs. Claimant was discharged from the Navy after getting a DUI. Claimant struggled with addiction after returning from the military. He returned to the Rockford area, got engaged, and had two children. Claimant was doing well until 2013, when he was “severely beaten and locked in a room” as a result of an armed robbery at the store where he worked. Since then, he has been “fighting [respondent] for healthcare fees and PTSD.”

¶ 15 A VA representative spoke to claimant by telephone on November 5, 2014. The notes of that conversation indicate that claimant’s chief complaints were the inability to finish tasks or

concentrate and trouble falling asleep. The record notes PTSD from “military experience (lost a friend, [claimant] was shot while in military, and robbery after military)” and that the condition is “still triggered by certain events.” The note also provides that claimant was involved in AA and had been sober for about a year but occasionally used marijuana. Claimant was diagnosed with (1) ADHD, (2) unspecified trauma or stressor related disorder, suspect PTSD, (3) alcohol and cocaine use disorder in remission, and (4) cannabis use disorder, current. An order was entered for a mental health intake and a primary care appointment.

¶ 16 A VA mental health evaluation was performed on November 13, 2014. The report of that date notes that claimant reported PTSD from military experience with symptoms recently exacerbated as a result of a robbery. The symptoms noted were social isolation, increased depression, increased anxiety, increased nightmares, difficulty focusing and concentrating, and difficulty sleeping. Significant psychosocial and contextual factors were listed as “[r]e-experiencing [symptoms] of PTSD with [nightmares] and flashbacks related to car accident while in the military where best friend was decapitated. Triggers take him back to that scene.” Claimant was diagnosed with ADHD, PTSD, depressive disorder, and general anxiety disorder. He was prescribed Gabapentin and Sertraline and instructed to follow up in about one month. Claimant followed up at the VA on December 19, 2014. The report of that visit indicates that claimant was having difficulty obtaining counseling services. Claimant testified that he attempted to obtain psychotherapy at the VA, but there was a long wait list and the services were conducted in Madison, Wisconsin. As a result, claimant was referred to the Rockford Clinic for more immediate treatment.

¶ 17 Claimant testified that during his employment with respondent, he was a top salesperson. Prior to the robbery, he won awards and met the president of the company due to his sales

record. After the robbery, his sales decreased. Admitted into evidence were the payroll records of claimant's earnings for the pay periods between December 22, 2012, and October 26, 2013. Those records reflect that following the March 15, 2013, incident, claimant continued to regularly work a 40-hour week through the pay period ending on August 31, 2013, and that he regularly worked overtime from December 22, 2012, through August 31, 2013. In addition, he was paid the following monthly sales commissions: (1) \$1,201.18 on January 23, 2013; (2) \$2,644.03 on February 20, 2013; (3) \$1,753.58 on March 30, 2013; (4) \$722.62 on April 27, 2013; (5) \$2,791.54 on May 29, 2013; (6) \$1,678.78 on June 26, 2013; (7) \$1,052.37 on July 24, 2013; (8) \$909.34 on August 31, 2013; (9) \$851.56 on September 28, 2013; and (10) \$350.18 on October 26, 2013.

¶ 18 Claimant was asked about the commission records which evidenced increased commissions after the robbery. Claimant explained that the Belvidere store was a "C" store (the lowest) with five sales representatives. The Rockford store was the busiest store in the state and had 25 sales representatives. Claimant stated that his commissions were initially high due to the increased volume in business. However, his commissions declined each month thereafter.

¶ 19 Relative to work after he separated from respondent's employ, claimant related that he attempted to return to other employment and estimated that he had been able to work for about three to four months after leaving respondent. Claimant had done occasional construction-type work. He found it easier to work at jobs in which he worked alone. A September 26, 2013, treatment note from Rockford Health Systems provides that claimant was working "manual labor concrete" at the time of his visit. At that time, claimant presented with complaints of numbness in both arms and hands for "3/4 weeks." Claimant stated that anytime he lifted his arms above shoulder level, he experienced numbness and tingling which subsided when his arms are at his

sides. Claimant reported a past medical history of heartburn, nicotine dependence, anxiety and ADHD, but denied using drugs or alcohol. Claimant was diagnosed with numbness, tingling, and nicotine dependence.

¶ 20 At the time of the arbitration hearing, claimant testified that his symptoms had improved since he stopped working for respondent. However, he continues to experience panic attacks and nightmares. He testified that he used to be very outgoing. He also liked to go places like markets, but no longer does. Claimant also stated that since the robbery, he does not like to be confined. There are also days in which he is unable to get out of bed. He also testified to remaining uncomfortable around African-American men. Claimant testified he would like psychiatric treatment and counseling.

¶ 21 Respondent called Ilka Nunez to testify. In March 2013, Nunez worked as a human resources consultant for respondent. Nunez testified that following the March 15, 2013, robbery, she was involved in the return-to-work process for claimant. Nunez stated that respondent was given one week of paid leave following the incident. He then returned to work the final week of March 2013. Nunez noted that in April 2013, respondent accommodated claimant's request to transfer to a different store. She testified that between April 1, 2013, and August of that year, she was not made aware of any injuries or accommodations requested by claimant. She added that claimant had no attendance issues between April 1 and August 28, 2013. Further, although she did not have any documentation which would evidence claimant's sales goals, she testified that claimant did attain his sales goals during that same period.

¶ 22 Nunez testified that claimant took 12 days off for vacation from late in August through September 9, 2013. Subsequently, he requested a leave of absence from mid-September 2013, through December 2013. Respondent was unable to accommodate claimant's request, but

offered him two additional weeks off, until the end of September. After the end of September, respondent referred claimant to the employee assistance program and a backup childcare program which assists employees transporting their children to and from daycare. In addition, respondent told claimant that he could work part time. Nunez stated that from August through mid-October 2013, she was not made aware of claimant's need for time off for any reason other than child care. Nunez testified that respondent asked claimant to return to work in mid-October 2013, but he did not do so. As such, claimant was terminated on October 21, 2013.

¶ 23 On April 18, 2014, claimant was examined by Dr. Edward Tuder, a psychiatrist, at the request of his attorney. Dr. Tuder took the following history from claimant. Claimant was at work on March 15, 2013, when the store was robbed at gunpoint by three black men. Claimant and his coworkers were forced to pack up thousands of pieces of equipment and load them into a truck. Two days later, claimant had his "first ever panic attack," consisting of crying, hyperventilation, and dizziness. Claimant stated that the panic attacks have continued to occur, his sales volume at work decreased, he became preoccupied with evaluating customers for safety risks, and he became uncomfortable around black male customers. Claimant also reported that his performance was impacted by increased alcohol use and hangovers. Claimant continued to work until August 2013, when he went on paternity leave. Claimant's employment with respondent ended in October 2013, but he obtained a job in construction. Dr. Tuder documented that since the robbery, claimant developed frequent nightmares and flashbacks, which have since diminished in frequency to once or twice per week. In addition, he experiences social withdrawal, avoidance of crowds, depression, anxiety, irritability, and difficulty sleeping.

¶ 24 Dr. Tuder recorded that claimant had a long history of substance abuse. Claimant reported that in the year prior to the robbery, he would binge drink once or twice per month and

use cocaine once or twice per month. Claimant also reported that he had used marijuana daily for years. Following the robbery, claimant's alcohol intake became excessive, leading to frequent cocaine use, typically to stimulate himself in the morning when he had a hangover. Claimant's alcohol and cocaine use also led to increased gambling, which resulted in thousands of dollars of debt. Claimant reported that he sought treatment at Rosecrance, but continued to abuse substances after the program ended. At the time of his visit with Dr. Tuder, claimant represented that he continued to use marijuana daily, but that he had not used alcohol for 4½ months or cocaine for 2½ months. Claimant also stated that he attends three AA meetings each week. Dr. Tuder noted that claimant had a family history of substance abuse and bipolar disorder.

¶ 25 In addition, claimant reported prior exposure to trauma. Claimant stated that at age 17, he was parked at a restaurant “between two cars whose drivers were having an argument which led to gunfire” and claimant was shot six times. Claimant denied developing psychological symptoms following the shooting incident. Claimant also reported that he was involved in a motor-vehicle accident “in which the car flipped over seven times and his friend, who was driving, was killed.” Claimant related that he was not injured in the car accident, but did receive “some counseling.”

¶ 26 Dr. Tuder's diagnoses relative to the March 15, 2013, robbery were PTSD, panic disorder without agoraphobia, alcohol dependence, and cocaine dependence. Dr. Tuder opined that there “might or could” be a causal relationship between claimant's work incident and his current state of ill-being. Dr. Tuder recommended a referral to a psychiatrist for care. He also recommended continued AA participation for the alcohol and cocaine dependence. Finally, Dr. Tuder opined

that claimant would be unable to work in a crowded environment or with exposure to a substantial number of black men.

¶ 27 On April 29, 2014, claimant was referred to Dr. David Hartman, a clinical psychologist and neuropsychologist, for an examination pursuant to section 12 of the Act (820 ILCS 305/12 (West 2012)). Dr. Hartman reviewed claimant's medical records and Dr. Tuder's report, administered various psychological tests, interviewed claimant, and conducted a physical examination of claimant. Claimant alleged mental trauma related to an armed robbery on March 15, 2013, while working for respondent. Claimant described the robbery to Dr. Hartman. He also referenced the time he was shot as a teenager and the motor-vehicle accident in which his friend was killed. Regarding the former, claimant related that he was at a restaurant "when two guys decided to shoot it out and [he] was caught in [the] crossfire." Claimant stated that because he "was in the wrong time and the wrong place," he was shot six times. Claimant told Dr. Hartman that neither the motor-vehicle accident nor the shooting affected him more than transiently because he "usually tend[s] to forget everything." He added, however, that he has been unable to overcome the robbery. He stated that following the robbery, his ability to work effectively as a store clerk deteriorated. He also related that since the robbery, he has been depressed, uses alcohol and drugs, has suicidal thoughts when drinking, has difficulty sleeping, has nightmares, is unable to socialize, experiences anxiety, and has anger-control problems. Claimant noted that other members of his family are bipolar and have used drugs and alcohol.

¶ 28 Dr. Hartman found that the tests administered to claimant showed that he consistently attempted to exaggerate and distort his presentation, malingered cognitive impairment, and was an unreliable narrator of his symptom profile. As such, Dr. Hartman opined that treatment providers or examiners who rely on claimant's subjective self report may misdiagnose or

misattribute his symptoms. Dr. Hartman further noted that claimant was alleging he had PTSD as a result of the robbery, along with subsequent deterioration of work functioning, citing a fear of individuals who resembled the store robbers. Yet, Dr. Hartman noted, claimant did not stop working for respondent for several months and then related his departure from respondent's employ to paternity leave. Dr. Hartman opined that Dr. Tudor's conclusions appeared to be based on claimant's self-report and failed to consider claimant's family history of a bipolar disorder. Dr. Hartman felt that Dr. Tudor did not consider symptom overlap between PTSD and other psychological disorders or rule out alcohol or cocaine-related anxiety symptoms as a cause of claimant's presentation. Dr. Hartman found that Dr. Tudor failed to incorporate any objective data to corroborate claimant's self-report symptoms, their attributions, or his supposed limitations. Dr. Hartman also found that Dr. Tudor provided no methodology to distinguish between the alleged PTSD and the very high levels of expected co-concurrence between bipolar disorder and anxiety disorder for other reasons. Dr. Hartman stated that adults with ADHD, such as claimant reported, also have higher rates of psychiatric morbidities including bipolar disorder, anxiety disorder, and substance abuse. Dr. Hartman concluded that the contributory influence of claimant's pre-accident traumas, pre-accident alcohol abuse/dependence, or cocaine-induced anxiety disorder did not appear to have been considered by Dr. Tudor. Dr. Hartman noted that Dr. Tudor did not report using any objective methodology to rule out malingering. As such, Dr. Hartman considered Dr. Tudor's attribution of the work robbery to claimant's symptoms speculative and non-dispositive.

¶ 29 Dr. Hartman opined that claimant's current psychological profile, while highly exaggerated, appeared to be consistent with a long history of bipolar disorder, alcohol dependence, polysubstance dependence, and antisocial personality disorder. He further noted

that these were features of claimant's long-term personal and family history and were unrelated to the robbery in question. Dr. Hartman opined there was no credible additive or aggravating diagnosis of PTSD related to the robbery in question or to prior traumas. He added that, to the extent that claimant's levels of substance dependence and bipolar disorder were as severe as described, they completely overshadowed any hypothetical clinical influence of the robbery and rendered such influence speculative. Ultimately, Dr. Hartman diagnosed: (1) bipolar disorder, unspecified; (2) malingering; (3) alcohol dependence syndrome; (4) cocaine dependence; (5) cannabis dependence; (6) drug-induced anxiety disorder; (7) alcohol-induced anxiety disorder; (8) antisocial personality disorder; and (9) pathological gambling. Dr. Hartman recommended immediate care for claimant, but concluded that there was no credible influence of the March 15, 2013, event on claimant's mental condition or disability.

¶ 30 Based on the foregoing evidence, the arbitrator concluded that claimant sustained a compensable injury arising out of and in the course of his employment with respondent. Furthermore, the arbitrator found that although claimant's psychiatric issues may be "multifactorial," based on the totality of the evidence, "the psychic trauma and physical trauma with the gun [on March 15, 2013] are, separately as well as in tandem, causative factors in the development and or [*sic*] the exacerbation of the [claimant's] current condition of ill-being." In this regard, the arbitrator observed that despite claimant having sustained two traumatic events prior to the robbery, he did not receive treatment for these events or suffer from any psychiatric symptoms for six or seven years prior to the incident in question. Moreover, he was excelling at his position with respondent. After the assault, however, claimant's condition deteriorated. He had difficulty performing his job duties and turned to drugs and alcohol to deal with his residual symptoms. The arbitrator found claimant's testimony "very persuasive" and "extremely

credible.” Regarding the medical evidence, the arbitrator adopted the opinion of Dr. Tuder, “a psychiatrist over [Dr. Hartman,] the section 12 psychologist.” In so doing, the arbitrator acknowledged Dr. Hartman’s opinion that psychological testing showed that claimant was malingering, but he questioned the reliability of the tests administered by Dr. Hartman since claimant was abusing drugs and alcohol at the time of the evaluation. The arbitrator awarded claimant temporary total disability (TTD) benefits of \$666.67 per week for 85-6/7 weeks (from October 22, 2013 (the day after claimant’s separation from respondent’s employment), through June 15, 2015 (the date of the arbitration hearing)). The arbitrator further found that claimant was entitled to prospective psychiatric treatment.

¶ 31 The Commission unanimously reversed the arbitrator’s decision, finding that claimant failed to prove that his current condition of ill-being was causally related to the March 15, 2013, robbery. In support of its conclusion, the Commission cited several factors, including: (1) claimant’s ability to work following the robbery; (2) claimant’s “significant lack of credibility,” particularly with regards to the details of claimant’s exposures to trauma; (3) the gaps in claimant’s medical treatment; (4) his failure to initially report to Rosecrance any history of the robbery on March 15, 2013, or any symptoms related to same; and (5) the “more persuasive opinions of Dr. Hartman.” As a result of the Commission’s finding, it vacated the awards of TTD benefits, medical expenses after March 18, 2013, and prospective medical care, but remanded the matter for further proceedings pursuant to *Thomas v. Industrial Comm’n*, 78 Ill. 2d 327 (1980). On judicial review, the circuit court of Winnebago County confirmed the decision of the Commission. This appeal ensued.

¶ 32

II. ANALYSIS

¶ 33 On appeal, claimant argues that the Commission's finding that his current condition of ill-being is not causally related to the March 15, 2013, robbery, was against the manifest weight of the evidence. In a proceeding under the Act, the employee has the burden of proving by a preponderance of the evidence all of the elements of his or her claim. *O'Dette v. Industrial Comm'n*, 79 Ill. 2d 249, 253 (1980). Among other things, the employee must establish that his or her condition of ill-being is causally connected to a work-related event. *Elgin Board of Education School District U-46 v. Illinois Workers' Compensation Comm'n*, 409 Ill. App. 3d 943, 948-49 (2011). Causation presents an issue of fact. *Bernardoni v. Industrial Comm'n*, 362 Ill. App. 3d 582, 597 (2005); *City of Springfield v. Industrial Comm'n*, 291 Ill. App. 3d 734, 739 (1997); *Caterpillar, Inc. v. Industrial Comm'n*, 228 Ill. App. 3d 288, 293 (1992). In resolving factual matters, it is the function of the Commission to assess the credibility of the witnesses, resolve conflicts in the evidence, assign weight to be accorded the evidence, and draw reasonable inferences therefrom. *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 has long been recognized to possess in the medical arena. *Long v. Industrial Comm'n*, 76 Ill. 2d 561, 566 (1979). A reviewing court may not substitute its judgment for that of the Commission on factual matters merely because other inferences from the evidence may be reasonably drawn. *Berry v. Industrial Comm'n*, 99 Ill. 2d 401, 407 (1984). We review the Commission's factual determinations under the manifest-weight-of-the-evidence standard. *Orsini v. Industrial Comm'n*, 117 Ill. 2d 38, 44 (1987). A decision is against the manifest weight of the evidence only if an opposite conclusion is clearly

apparent. *Mlynarczyk v. Illinois Workers' Compensation Comm'n*, 2013 IL App (3d) 120411WC, ¶ 17.

¶ 34 At the outset, we note that although claimant phrases the issue on review in terms of whether the Commission's finding on causation is against the manifest weight of the evidence, he devotes several pages of his argument to an entirely different issue—whether he proved an accident arising out of and in the course of his employment with respondent. The Commission did not reverse the arbitrator's finding on the basis of accident. Rather, it concluded that the preponderance of the evidence established that claimant's psychological condition of ill-being, if any, was not causally related to the March 15, 2013, robbery. In light of this finding, the Commission declared all other issues moot. Thus, we find claimant's argument with regard to accident misplaced, and we do not address it.

¶ 35 Turning to the issue of causal connection, the Commission unanimously found that claimant failed to prove that his current condition of ill-being was causally related to the March 15, 2013, robbery. In support of its finding, the Commission cited several factors, including: (1) claimant's work history following the robbery; (2) claimant's "significant lack of credibility," particularly with regards to the details of claimant's exposures to trauma; (3) the gaps in claimant's medical treatment; (4) his failure to initially report to Rosecrance any history of the robbery on March 15, 2013, or any symptoms related to same; and (5) the "more persuasive opinions of Dr. Hartman." We find ample evidence in the record to support the Commission's finding.

¶ 36 First, claimant's employment history casts doubt on the impact of any mental trauma sustained as a result of the March 15, 2013, robbery. The record establishes that claimant took some time off following the March 15, 2013, event, but returned to regular duty by April 1,

2013. Claimant's employment records show that between April and August 2013, he worked at least 40 hours per week, regularly worked overtime, and earned significant sales commissions. Nunez, respondent's human resources consultant, verified that between April 1, 2013, and the end of August, claimant had no attendance issues and he was attaining his sales goals. Although claimant took a leave of absence at the end of August, there was nothing to suggest that this was due to his alleged psychological injury. Indeed, claimant himself acknowledged that he requested leave at that time due to the birth of his daughter. Moreover, on September 20, 2013, claimant completed a leave-of-absence application to request additional time off for "child care," and Nunez stated that from August to mid-October 2013, she was not made aware of claimant's need for time off for any reason other than child care. Furthermore, claimant obtained a job in the construction field while he was on leave from respondent as evidenced by the September 2013 medical record from Rockford Health Systems. We note that medical record does not reference any complaints of mental trauma.

¶ 37 Second, the Commission could reasonably conclude that claimant lacked credibility given the inconsistencies between claimant's testimony at the arbitration hearing and other evidence presented at trial regarding claimant's exposures to trauma. For instance, at the arbitration hearing, claimant testified that when he was 19 years old, he was shot in both arms during a robbery while working as a pizza delivery driver. However, the hospital records of that incident document that claimant was a passenger in a car when a drive-by shooting occurred resulting in his gunshot wounds. Dr. Tuder, Dr. Hartman, and the VA records document similar histories of the shooting. Likewise, claimant's testimony regarding the details of the 2005 motor-vehicle accident is inconsistent with the police report of the accident. At the arbitration hearing, claimant testified that in 2005 accident occurred when an automobile hit the front end of

the vehicle in which he was traveling. Claimant also stated that it was raining at the time of the incident. However, according to the police report of the accident, the crash was a single-vehicle incident, the weather was clear, and the road surface was dry. The report further indicated that at the time of the crash, the driver of the vehicle was exceeding the speed limit and was under the influence of medicine, drugs, or alcohol.

¶ 38 There are also inconsistencies in claimant's testimony regarding the details of the March 15, 2013, robbery. For instance, although claimant testified that the robbers smashed everyone's cell phone, he reported being able to use his cell phone to call the police after the robbers left the premises. Further, at the arbitration hearing, claimant testified that while the robbers pointed a gun against the back of his head, they did not hit him with the gun. Yet, the records from Rosecrance and the VA provide that claimant reported that he was "severely beaten" during the robbery.

¶ 39 Third, as the Commission found, there were long gaps in claimant's treatment for the alleged mental trauma. Claimant first sought medical care after the robbery on March 18, 2013, with Rockford Health Physicians. At that time, claimant reported a history of anxiety and ADHD. Claimant also reported that he had been taking Wellbutrin for almost a year. The doctor discontinued the Wellbutrin, prescribed Klonopin, and referred claimant to counseling. Claimant, however, did not seek counseling. In fact, claimant did not seek additional treatment until he contacted Rosecrance on July 10, 2013. Moreover, at that time, claimant did not reference the March 2013 robbery or a history of mental illness. Rather, he detailed his history of alcohol and drug abuse and indicated that he sought treatment for those conditions. He also acknowledged a family history of alcohol and drug abuse as well as depression and bipolar disorder. It was not until claimant's subsequent contact with Rosecrance on July 19, 2013, that

he attributed his problems to being “severely beaten” during a robbery at work on March 15, 2013. As noted previously, however, when claimant testified at the arbitration hearing, he did not report being beaten during the robbery. Ultimately, claimant was referred to group counseling at Rosecrance. However, he attended only three of nine sessions before being discharged on August 9, 2013, with a referral for additional counseling. Thereafter, claimant did not seek additional treatment until he went to the VA in November 2014, approximately 15 months later.

¶ 40 Finally, the Commission cited the conflicting medical opinions offered into evidence regarding the relationship, if any, between claimant’s mental injury and the March 15, 2013, robbery. Dr. Tudor diagnosed PTSD, panic disorder without agoraphobia, alcohol dependence, and cocaine dependence. He opined that there “might or could” be a causal relationship between the robbery and claimant’s state of ill-being. Dr. Hartman diagnosed various maladies, including bipolar disorder, alcohol dependence, cocaine dependence, cannabis dependence, drug-induced anxiety disorder, alcohol-induced anxiety disorder, and antisocial personality disorder. However, he found no credible influence of the March 15, 2013, robbery on claimant’s mental condition or disability. In this regard, Dr. Hartman noted that the tests he administered to claimant showed consistent attempts by claimant to exaggerate and distort his presentation. Based on the test results, Dr. Hartman concluded that claimant was an unreliable narrator and a malingerer. Dr. Hartman attributed claimant’s psychological profile to bipolar disorder, alcohol dependence, polysubstance dependence, and antisocial personality disorder. Dr. Hartman noted that claimant had a long-term personal and family history of these conditions. Further, Dr. Hartman considered Dr. Tudor’s attribution of the work robbery to claimant’s symptoms as “speculative and non-dispositive.” In this regard, Dr. Hartman observed that Dr. Tudor’s

conclusions appeared to be based on claimant's self-report, but he did not incorporate any objective data to corroborate claimant's self-report of symptoms. Dr. Hartman further opined that Dr. Tudor provided no methodology to distinguish between the alleged PTSD and the very high levels of expected co-concurrence between bipolar disorder and anxiety disorder for other reasons and he did not report using any objective methodology to rule out malingering. Ultimately, the Commission found the opinion of Dr. Hartman more persuasive than that of Dr. Tudor.

¶ 41 In short, given the Commission's findings regarding claimant's employment history following the robbery, the inconsistencies in claimant's testimony, the gaps in medical treatment, the conflicting medical opinions, and in light of the Commission's role as fact finder and the deferential standard of review, we cannot say that a conclusion opposite that of the Commission is clearly apparent. Accordingly, we find that the Commission's finding that claimant failed to prove a causal connection between his alleged mental trauma and the March 15, 2013, robbery is not against the manifest weight of the evidence.

¶ 42 **III. CONCLUSION**

¶ 43 For the reasons set forth above, we conclude that the Commission's finding that claimant failed to prove a causal connection between his condition of ill-being and the March 15, 2013, robbery was not against the manifest weight of the evidence. The Commission remanded the case to the arbitrator "for further proceedings for a determination of a further amount of temporary total compensation or of compensation for permanent disability, if any," pursuant to *Thomas*, 78 Ill. 2d 327. We find a remand unnecessary given the Commission's reversal of the arbitrator's decision on the issue of causation and its vacature of TTD benefits. Accordingly, as

modified, we affirm the judgment of the circuit court of Winnebago County, which confirmed the decision of the Commission.

¶ 44 Affirmed as modified.