

2017 IL App (4th) 160374WC-U

NO. 4-16-0374WC

Order filed June 7, 2017

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

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CITY OF SPRINGFIELD,	)	Appeal from the
	)	Circuit Court of
Appellant,	)	Sangamon County.
	)	
v.	)	No. 15-MR-790
	)	
THE ILLINOIS WORKERS'	)	Honorable
COMPENSATION COMMISSION, <i>et al.</i>	)	Brian T. Otwell,
(Kelly Leka, Appellee).	)	Judge, presiding.

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

**ORDER**

¶ 1 *Held:* The circuit court erred in reversing the Commission's decision to deny the claimant benefits under the Workers' Compensation Act (820 ILCS 305/1 *et seq.* (West 2014)) where the Commission's finding that the claimant's job duties did not contribute to the claimant's bilateral carpal and cubital tunnel is not against the manifest weight of the evidence.

¶ 2 The employer, The City of Springfield, appeals the judgment of the circuit court of Sangamon County which reversed the decision of the Workers' Compensation Commission (Commission) denying benefits to the claimant, Kelly Leka, under the Workers' Compensation Act (Act) (820 ILCS 305/1 *et. seq.* (West 2014)) for bilateral carpal tunnel and bilateral cubital tunnel he alleges he sustained as a result of repetitive trauma while working for the employer. For the reasons that follow, we reverse the judgment of the circuit court and reinstate the decision of the Commission.

¶ 3 **FACTS**

¶ 4 On August 8, 2013, the claimant filed an application for adjustment of claim with the Commission pursuant to the Act (820 ILCS 305/1 *et seq.* (West 2014)), alleging repetitive trauma injuries to his bilateral wrists, hands, and elbows, with a manifestation date of July 3, 2013. The claimant's application came before the arbitrator on June 13, 2014, where the following relevant evidence was adduced.

¶ 5 The claimant testified he is 52 years old and employed in the employer's Water, Light, and Power division. He has been employed by the employer since 1991 and is a member of the IBEW local. He first worked as an apprentice in the traffic and metering department and then became a journeyman in that department. He is classified as a lineman. He became a service foreman in 2004. Prior to becoming a service foreman, the claimant testified that he maintained traffic signals, tornado sirens, school crossings, and commercial and residential meters.

¶ 6 Claimant's Exhibit 10 is a job description of a lineman that the claimant obtained from his local union hall. That job description contains the following nine duties:

- "1. Drive single or combination vehicles 26,001 or more lbs.
2. Operate various equipment (digger derrick, aerial lift device, trenchers, back hoe, crane[,] etc.).
3. Climb ladder, poles, steel structures, in and out of ditches, on and off equipment.
4. Load and unload trucks or trail[e]rs for transporting of electrical equipment and machinery.
5. Assemble and disassemble various types of electrical material or equipment in high places, below ground level, at ground level, or within confined spaces.
6. Inspect tools and equipment for wear or defects to assure safe and proper operation.
7. Fill out requisition forms for material and tools, write[] out maintenance tickets for repair of equipment.
8. Communicate with general public.
9. Perform[] other duties as required or assigned."

¶ 7 The claimant testified that he had performed all of the foregoing job duties while working for the employer with the exception of operating a digger derrick. Also, in accordance with the job description, he testified that he has been required to operate electrical testing equipment and various detection devices and volt meters. He testified that he has operated various pneumatic and hydraulic tools such as jackhammers, drills, saws, and tamps. He agreed with that part of the job description which characterized grasping as 80% of his job, in that he grasps meters, tools, lineman pliers, and cable

during pulling. He agreed also with that part of the job description which stated that he is required to exert in excess of 20 pounds of force constantly to move objects. He works outside, sometimes in extremely cold temperatures, but no lower than 5 to 15 degrees depending on wind chill.

¶ 8 From 2004 to 2009, the claimant testified that he was a service foreman in the metering department, and since 2009, he performs the duties of service foreman from time to time. Claimant's Exhibit 9 is a job description for a service foreman for the substation department, rather than the metering department. Nevertheless, the claimant testified that he did some shop work, which was listed on the exhibit, but not on motors, regulators, or air conditioners, as listed in the exhibit.

¶ 9 After the claimant testified as to his job position as a lineman and the job descriptions related thereto, the following colloquy between claimant and his counsel took place:

"Q. Counsel has provided a job description that's marked as Respondent's Exhibit Number 2 that is a – do you see what that job description is?

A. Yes.

Q. What is the title of that, if I may?

A. Meter and traffic repairman.

Q. Is that a job title that you [ha]ve held through the City of Springfield?

A. I guess, yeah.

Q. Okay. Is this – it says maintenance supervisor. Is that the same as the service foreman or is that a different type of job? Strike that. Your job title actually

was meter and traffic repairman[,] is that correct?

A. Well, that's what we [a]re listed at under the contract as far as wages.

Q. Okay. Even though you [a]re listed as a meter and traffic repairman you are a  
lineman as well[,] is that correct?

A. That's what my ticket says."

¶ 10 The claimant then testified that although the job description for meter and traffic repairman is characterized as "medium," he would say it varies and a lot of times it is "heavy." The claimant then testified regarding a series of photographs depicting various tools and equipment he uses in performing his job. Among these exhibits were pictures of various types of wire that the claimant testified he would have to grip and push and pull to repair and replace traffic signals and electrical meters. The claimant testified that he had spent the day doing this type of work on July 3, 2013, when he developed extreme pain in his upper extremities. The claimant also testified as to tools he was required to use, including cable cutters, which require a different degree of force to use depending on the thickness of the wire or cable.

¶ 11 The claimant also testified as to his job duty of "metering," or replacing the electrical meters or gauges that exist outside of homes and businesses to track electrical use. The claimant explained that the newer meters are two pounds but older meters are heavier the older they are. The claimant testified that it takes a great deal of force to replace these meters due to rusty lock bands and their tendency to get stuck in their ring base. With regard to a traffic signal knock-down, the claimant testified he is required to grip a 31-inch pipe wrench and cheater pipe as well as hold the poles in place. The

claimant testified regarding other tools and jobs he has been required to use, including banding overhead poles, and crimping and stripping interconnectors, all of which require different cutting tools requiring squeezing or gripping with a certain amount of force. He also testified that he sometimes had to cut steel rebar using a big bolt biter. Other tools the claimant testified to using are hacksaw, groove pliers, Insulink, sledgehammer, needle nose pliers, screwdrivers, pin pullers, ratchets, sockets, and wrenches.

¶ 12 The claimant testified that he starts work at 7:30 a.m., takes a 15 minute break in the morning and afternoon, and a half hour for lunch. When asked whether he does the same thing every day, the claimant testified, "It varies. Sometimes it[']s the same thing every day, sometimes it varies." He testified that he generally uses the tools discussed in the previous testimony throughout the course of his work day. The problems with his hands would increase as his work day and work week progressed.

¶ 13 On cross-examination, the claimant testified that he had surgery on his left shoulder in November 2009 and his right shoulder in 2011. He went back to work full duty in June 2012. In the last three years, the vast majority of the work he had done has been in the installation and removal of electric meters. This entails opening the meter base, grabbing the meter, and jerking it out, followed by putting a band on the new meter, screwing it down and sealing it. The oldest meters weigh about ten pounds. He moves from house to house in order to do this task and often does this multiple days in a row and all day long. On re-direct, he testified that what causes him the most problems with this work is the gripping and squeezing, fighting the lock bands and using a lot of

pressure to get them out and shove them in. The process of installing and re-installing the meters takes a couple of minutes.

¶ 14 Dr. Michael D. Watson testified on behalf of the claimant via evidence deposition taken on April 30, 2014. He testified he is an orthopedic surgeon who focuses his practice on the upper extremities. The claimant first consulted with him on August 27, 2013, at which time he complained of bilateral arm pain with numbness and tingling in his hands. The claimant stated that the symptoms actually started to a lesser degree two years previously, but they got progressively worse, and he was having difficulty performing his activities of daily living as well as his job duties as a lineman. He described his work as a lineman as repetitive work with his hands, using hand tools and performing a great deal of pushing, pulling, gripping, and lifting which caused his hands to "go to sleep," as well as pain.

¶ 15 Dr. Watson testified that he reviewed the claimant's nerve conduction studies, which were administered by Dr. Trudeau, and suggested moderately severe bilateral carpal tunnel as well as left cubital tunnel. Based on Dr. Watson's physical examination of the claimant, Dr. Watson determined that the claimant suffered from bilateral carpal tunnel syndrome and bilateral cubital tunnel syndrome. Dr. Watson testified that there are multiple potential causes for carpal tunnel syndrome, including diabetes, thyroid disorders, and smoking. Some believe obesity also plays a role. However, Dr. Watson testified that, in his practice, it appears that the majority of carpal tunnel is caused by repetitive hand tasks, such as gripping, squeezing, keyboarding, and using tools. In many

instances, carpal tunnel is multifactorial, such that multiple factors can contribute to the contraction and worsening of the condition.

¶ 16 Dr. Watson reviewed the job description for a lineman that the claimant represented would be prepared by the employer as it relates to the claimant's position of a lineman. Included within this job description is lifting or raising objects horizontally from position to position, which was characterized as a duty to be performed 40% of the time. Dr. Watson testified that he would consider this to be repetitive hand work, and gripping, which he opined contributes to carpal tunnel syndrome. In addition, the job description listed grasping, or applying pressure to an object with the fingers and palm, which was characterized as a duty to be performed 80% of the time. Dr. Watson testified that this description is supportive of his opinion that the claimant's job duties contributed to cause his conditions. In formulating his opinion that the claimant's job duties contributed to cause his conditions, Dr. Watson also considered the employer's job description of a lineman characterizing the position as "heavy," defined as exerting in excess of 100 pounds of force occasionally, and/or in excess of 50 pounds of force frequently, and/or in excess of 20 pounds of force constantly to move objects. Dr. Watson performed bilateral carpal tunnel releases and ulnar nerve transpositions on the claimant.

¶ 17 On cross-examination, Dr. Watson testified that he did not see the job description presented during the deposition prior to that date. The only information he received about the claimant's job duties were from the claimant. However, on redirect, Dr. Watson testified that from treating linemen in the past, he has a general idea of the job



duties of a lineman and the information in the job description was consistent with his general understanding.

¶ 18 A consultation report from Dr. Watson dated August 27, 2013, contains the following history:

"[The claimant] is a 52[ ]year-old gentleman complaining of bilateral arm pain with hand numbness and tingling. He thinks that the symptoms started approximately two years ago and have gotten progressively worse where he is having difficulty performing his activities of daily living as well as his job duties. He does work as a lineman. He attributes these symptoms to the work he does as a lineman. He had to describe these for me today and it appears that there is a lot of repetitive work with hand tools [ ] and with pushing[,] pulling[,] gripping[,] and lifting. These activities do make his hands go to sleep at this time. There is also pain involved. He has tried some over-the-counter medication but this has not brought relief."

¶ 19 On November 12, 2013, Dr. Watson made the following note:

"Today I received a request to correct paperwork which was completed on August 27, 2013. On the initial paperwork I stated that his injury occurred approximately two years ago. Paperwork completed by [the claimant] on the initial office visit stated that he reported the injury to his supervisor and that the injury was on July 3, 2013. He described this as repetitive work as a journeyman lineman. Review of the records from Dr. Trudeau also indicate[s] that on this date he was pulling

cable and doing a lot of repetitive gripping. For this reason I corrected the [C]ity of Springfield los[s] control medical slip to reflect this change."

¶ 20 A consultation report from Dr. Edward Trudeau, a physiatrist at the Center for Neuromuscular Sciences, was admitted into evidence. This report contains the following history:

"This gentleman who is right handed has symptoms about equal in both upper extremities; he has worked for the city for twenty-one years; he is a union electrician; in the course of his repetitive work duties he has severe discomfort in both upper extremities. In fact about two weeks ago he was pulling cable and he has to pull cable and he has to grip and twist and he has to put wires together and do clipping and it is constant gripping and pulling use of the upper extremities. He had such severe pain he went home pretty much in agony after that work day about two weeks ago and finally sought help from Dr. Gauen to figure out what the problem is with the upper extremities. Clearly the history given here is that this gentleman has work-related difficulties involving the upper extremities. Symptoms are about equal on either side though the right elbow is likely worse than the left as we understand it. Wrists and hands are about the same; shoulders are both severely uncomfortable, it can be up in the neck and shoulders and it has just gotten worse and worse over the past several years."

¶ 21 The evidence deposition of Michael S. Lewis, M.D., dated March 3, 2014, was admitted into evidence on behalf of the employer. Dr. Lewis testified he is an orthopedic surgeon and works at the Illinois Bone and Joint Institute in Morton Grove. He is board

certified with a special interest in sports medicine. Dr. Lewis conducted an independent medical exam (IME) of the claimant on November 26, 2013, including a medical record review, and prepared a report as a result of that exam.

¶ 22 Regarding the history Dr. Lewis took from the claimant during the IME, Dr. Lewis testified that the claimant told him he worked as a journeyman lineman. When he questioned the claimant about his specific work activities, the claimant stated that he used hand pliers to cut a meter clamp, and that he performed one cut approximately four to six times an hour. According to Dr. Lewis, the claimant said that on occasion, in addition to cutting the wire, he had to remove a meter, and the meter weighed approximately two pounds.

¶ 23 Regarding his review of the claimant's medical records and the claimant's physical exam, Dr. Lewis agreed that the claimant had bilateral carpal tunnel and left ulnar neuropathy, and that he was a candidate for the surgeries that were performed as a result of these conditions. However, based on his evaluation of the claimant and with reasonable medical certainty, Dr. Lewis opined that there was not a causal connection between the claimant's carpal and cubital tunnel and the claimant's work activities with the employer. Dr. Lewis testified that he formed this opinion based on his review of the "American Medical Association (AMA) Guide to the Evaluation of Disease and Injury Causation," specifically as it relates to carpal and cubital tunnel syndrome. Dr. Lewis testified that, under these guidelines, the amount of force and repetition the claimant used in his activities "did not come close to meeting the criteria listed."

¶ 24 On cross-examination, Dr. Lewis testified that he spent between 45 minutes and an hour with the claimant during the IME. The claimant did not give Dr. Lewis any information about the pliers he used to cut the wires other than they were hand pliers. Dr. Lewis' understanding based on the history the claimant gave him was that the claimant did not have to use a significant amount of force to cut the wires. Dr. Lewis testified that it was his understanding that the claimant was a "journeyman lineman" but does not know how long he has worked at that occupation or how long he has worked for the employer. He understands that the claimant works outside, but it is his opinion that exposure to cold weather must be extreme as a risk factor for carpal tunnel. Dr. Lewis testified that he has not seen any job description for the claimant's position or any other description of the claimant's duties other than that provided by the claimant at the time of the IME.

¶ 25 With regard to the AMA guidelines, Dr. Lewis testified that the guidelines require repetition within 30 second cycles and force of more than 50 percent of someone's maximum force in order to be considered the force and repetition that could cause carpal tunnel. For cubital tunnel, Dr. Lewis testified the guidelines are much stricter. Based on these guidelines, Dr. Lewis determined that the claimant's description of his activities would not require sufficient force and/or repetition to cause his carpal and cubital tunnel. However, Dr. Lewis did not review any other written material from the National Institute of Occupation Safety and Health (NIOSH) as to whether the claimant's job duties would be sufficient to cause or exacerbate a carpal tunnel syndrome. He is also unaware of any outside activities that would be a factor in causing carpal and cubital

tunnel and the only nonoccupational factor that he is aware of that could contribute to these conditions is the fact that the claimant is overweight, although not obese.

¶ 26 On redirect, Dr. Lewis testified that he gave the claimant ample time to fully explain his job duties. Finally, Dr. Lewis testified that carpal and cubital tunnel are often considered idiopathic diseases, or a disease arising without an apparent extrinsic cause, and that this is his opinion regarding the claimant's carpal and cubital tunnel condition.

¶ 27 On August 15, 2014, the arbitrator issued a decision granting the claimant benefits under the Act. 820 ILCS 310/1 *et. seq.* (West 2014). The employer appealed to the Commission, which entered an order reversing the decision of the arbitrator and finding that the claimant failed to prove that his conditions were caused by his employment. In its analysis, the Commission began by noting the claimant's lack of candor regarding his actual work activities. In particular, the Commission found disingenuity in the claimant's reliance on the job description of a "lineman" and the tools and equipment used by a "lineman," when these were not indicative of the claimant's actual typical activities at work.

¶ 28 Further, the Commission noted that the medical records reflected that the claimant began developing symptoms in mid 2011, after being off work or on light duty following shoulder surgeries in 2009 and 2011. In addition, the Commission found that the claimant did not tell Dr. Watson or Dr. Lewis about the incident in July 2013 in which the claimant contends he developed severe pain in his arms after digging a ditch and pulling cable. Finally, the Commission found the opinion of Dr. Lewis, that the

claimant's carpal tunnel syndrome and cubital tunnel syndrome are idiopathic and not work-related, to be more sound than the opinion of Dr. Watson to the contrary.

¶ 29 The claimant appealed the Commission's decision to the circuit court of Sangamon County. On April 18, 2016, the circuit court entered judgment reversing the decision of the Commission and reinstating the decision of the arbitrator. The circuit court found that the opinions of Dr. Trudeau and Dr. Watson are entitled to much greater weight than the relatively uninformed opinion of Dr. Lewis, and that the Commission's decision is inconsistent with our decision in *City of Springfield v. Workers' Compensation Comm'n*, 388 Ill. App. 3d 297 (2009). The employer filed a notice of appeal to this court.

¶ 30

#### ANALYSIS

¶ 31 The Commission denied the claimant benefits for his repetitive trauma injuries in this case because it found that the claimant failed to prove that these injuries were work-related. Whether a causal connection between a claimant's injuries and employment exists is a question of fact for the Commission, and a reviewing court will overturn the Commission's decision only if it is against the manifest weight of the evidence. *Id.* at 315. For a finding of fact to be against the manifest weight of the evidence, the opposite result must be clearly apparent from the record on appeal, and if there is sufficient factual evidence in the record to support the Commission's determination, it will not be set aside on appeal. *Id.*

¶ 32 " 'In cases relying on the repetitive-trauma concept, the claimant generally relies on medical testimony establishing a causal connection between the work performed and claimant's disability.' " *Id.* (quoting *Williams v. Industrial Comm'n*, 244 Ill. App. 3d 204,

209 (1993)). Here, the claimant supported his claim that his bilateral carpal tunnel and bilateral cubital tunnel were work-related with the testimony of his treating physicians, Dr. Trudeau and Dr. Watson. However, the employer presented the testimony of Dr. Lewis, who spoke with the claimant about his duties, examined the claimant, and opined that the claimant's conditions are idiopathic in origin and not work-related. The Commission found Dr. Lewis' opinion more credible, in part because the Commission found Dr. Lewis' understanding of the claimant's actual job duties to be more accurate. The Commission found much of the claimant's testimony regarding his job duties to be disingenuous. While the claimant testified to the accuracy of a job description from the union hall of a "lineman," and testified extensively regarding processes and tools for performing that job, the Commission found that the claimant, as he told Dr. Lewis, was actually replacing meters. Regardless, the claimant's testimony regarding these other processes and tools did not contain specific information as to whether they would meet the force and repetition requirements that Dr. Lewis testified must be present in order to have causation. In resolving questions of fact, it is the function of the Commission to judge the credibility of the witnesses and resolve conflicting medical evidence. *Id.* (citing *O'Dette v. Industrial Comm'n*, 79 Ill. 2d 249, 253 (1980)). In reversing the Commission's decision, the circuit court invaded the province of the Commission to evaluate medical evidence.

¶ 33 We also disagree with the circuit court's conclusion that the Commission's decision conflicts with our decision in *City of Springfield v. Workers' Compensation Comm'n*, 388 Ill. App. 3d 297 (2009). In *City of Springfield*, the Commission determined

that the claimant had met his burden of proof as to causation, and we found its decision was not against the manifest weight of the evidence. *Id.* at 316. Most notably, in *City of Springfield*, the employer's medical expert gave no opinion on causation, rendering the causation opinion of the claimant's expert essentially un rebutted. *Id.* at 316. Here, as set forth above, the Commission was presented with conflicting medical opinions on causation, which it was its province to resolve. Accordingly, we find *City of Springfield* to be inapposite to the case at bar.

¶ 34

#### CONCLUSION

¶ 35 For the foregoing reasons, the circuit court's judgment is reversed, and the Commission's decision to deny the claimant benefits reinstated.

¶ 36 Circuit court judgment reversed; Commission decision reinstated.