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2018 IL App (3d) 170725WC-U

Order filed July 9, 2018

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

GEORGE CAMPBELL,	)	Appeal from the Circuit Court
	)	of the Twelfth Judicial Circuit,
Appellant,	)	Will County, Illinois
	)	
v.	)	Appeal No. 3-17-0725WC
	)	Circuit No. 17-MR-235
	)	
ILLINOIS WORKERS' COMPENSATION	)	Honorable
COMMISSION, *et al.*, (Central Freight	)	John C. Anderson,
Lines, Appellees).	)	Judge, Presiding.

PRESIDING JUSTICE HOLDRIDGE delivered the judgment of the court.
Justices Hoffman, Hudson, Harris, and Barberis concurred in the judgment.

ORDER

¶ 1 *Held*: (1) The Commission considered and rejected the claimant's claim that he sustained a repetitive trauma injury with a manifestation date of February 19, 2010 (as opposed to a traumatic injury sustained on that date); and (2) the Commission's finding that the claimant failed to prove that he sustained accidental injuries arising out of and in the course of his employment with the employer was not against the manifest weight of the evidence.

¶ 2 The claimant, George Campbell, filed an application for adjustment of claim under the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2010)), seeking benefits for

repetitive trauma injuries to his back and person as a whole which he claimed were causally connected to his employment as a truck driver for the employer. The claimant alleged that he had sustained severe back pain due to "repeated lifting of freight" and "vibration" from a broken seat in his truck. He alleged a manifestation date of February 19, 2010. After conducting a hearing, an arbitrator found that the claimant had failed to prove that he sustained an accident arising out of and in the course of his employment with the employer and denied the claimant's claim for benefits.

¶ 3 The claimant appealed the arbitrator's decision to the Illinois Workers' Compensation Commission (Commission). The Commission unanimously affirmed and adopted the arbitrator's decision.

¶ 4 The claimant then sought judicial review of the Commission's decision in the circuit court of Will County, which confirmed the Commission's decision.

¶ 5 This appeal followed.

¶ 6 FACTS

¶ 7 The claimant worked for the employer as a pick-up and delivery truck driver. His duties included driving, loading and unloading freight, and inspecting his truck before and after trips.

¶ 8 In order to load and unload freight, the claimant had open and close the door on his trailer many times per day. To do that, the clamant had to manipulate a latch to open the door, raise the door upward using a handle, and then lower the door again and secure the latch. The claimant testified that, beginning in 2009, the trailer door in his truck became extremely difficult to open. The claimant stated that he reported this issue to the employer in several of his Driver Vehicle Reports (DVRs), which truck drivers were required to prepare each day they drove. During the arbitration proceeding, the claimant introduced copies of 16 DVRs that he had submitted to the

employer between June 24, 2009, and August 11, 2009. Five of these reports referenced problems with the trailer door getting stuck or not closing easily.

¶ 9 The claimant testified that he experienced other problems with his truck in 2009, including brakes that were difficult to push (which caused him to jolt back and forth) and a leak in his air-glide seat (which caused him to slam to the floor and to slam his head on the ceiling while driving). He claimed that he reported these problems to the employer both before and after August 11, 2009. Several of the DVRs the claimant introduced mention that the brakes on the claimant's truck were "bad," "very stiff," or "spongy." However, none of them reference any problems with the driver's seat. The claimant testified that the employer never fixed any of the truck maintenance problems he reported.

¶ 10 The claimant testified that, at some point during 2009, he began to experience pain in his back and neck that progressively worsened. The claimant stated that, by January 2010, he was unable to perform his daily activities without pain.

¶ 11 On January 23, 2010, the claimant saw Dr. Shahid Masood, his family physician,[1] at Internal Medicine and Family Practice in Joliet. The claimant complained of back and neck pain, and he told Dr. Masood that his back and neck hurt from performing his duties as a truck driver. Dr. Masood's medical record of that visit reflects that the claimant was complaining of difficulty driving his truck and of pain in his neck and back. Dr. Masood recommended x-rays of the claimant's cervical and lumbar spine, which were performed on February 5, 2009. The x-rays of the claimant's cervical spine revealed moderate degenerative disc changes at C4-C5 and C5-C6 but normal anatomical alignment. The x-rays of the claimant's lumbar spine revealed a

[1] Dr. Masood had been the claimant's family physician for approximately 15 years at that time.

very mild spondylosis[2] which had progressed when compared to a prior study that was performed in 2007.

¶ 12 The claimant testified that, on the morning of February 19, 2010, he felt a sharp pain in his back while attempting to lift the door on his trailer. The claimant stated that the trailer door would not lift up and he had to exert excessive force to pull it open. The claimant testified that, at approximately 9:00 that morning, he told Tom Kovalik, the general manager of the employer's Bolingbrook facility, that he had felt pain in his back after pulling his trailer door. According to the claimant, Kovalik asked him whether he needed medical attention, and the claimant responded that he was already seeing a doctor for his back pain. Although the claimant acknowledged that it was the employer's policy to complete an incident report whenever an employee reported a work injury, the claimant testified that Kovalik did not ask the claimant to complete an incident report and the claimant was unsure whether Kovalik ever completed such a report.

¶ 13 The claimant testified that, during the time leading up to his visit to Dr. Masood in late January of 2010, it did not occur to him that his back and neck symptoms could be work related. On cross-examination, the claimant stated that, although he had been experiencing back pain prior to February 19, 2010, it was on that date that he became aware that his back and neck pain were related to his work. The claimant testified that he filed a claim alleging a February 19, 2010, accident date because his pain had been getting worse and was so "horrible" on that day that he reported it to Kovalik. Although the claimant continued to work after February 19, 2010,[3] he testified that his pain became worse thereafter and he was finding it increasingly more

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[2] "Spondylosis" is a degenerative process affecting the vertebral disc and facet joints that gradually develops with age.

[3] The claimant's time logs indicate that he worked a full 8.75-hour day on February 19, 2010, 44.42 hours

difficult to work.

¶ 14 On February 20, 2010, the claimant returned to Dr. Masood. Dr. Masood's medical record of that visit reflects that the claimant continued to complain of neck and back pain and reported that he was unable to drive his truck. However, Dr. Masood's February 20, 2010, medical record does not mention that the claimant reported sustaining a work accident or injury on February 19, 2010. Dr. Masood examined the claimant and reviewed the claimant's prior x-rays. Upon examination, the claimant complained of tenderness over the cervical and lumbar spine. Dr. Masood ordered MRIs of the claimant's cervical and lumbar spine.

¶ 15 The MRIs were performed on February 27, 2010. The cervical MRI revealed degenerative changes at C4-C5 and C5-C6 with mild stenosis but without any compression of the spinal cord, and a mild disc protrusion at C6-C7 with no spinal stenosis. The lumbar MRI showed: (1) a "tiny" central disc protrusion at L4-L5 without any spinal stenosis or nerve root displacement; and (2) a mild amount of osteophyte formation in the right paracentral and right lateral location of L5-S1 causing minimal encroachment on the right neural foramen fat.

¶ 16 On March 2, 2010, Dr. Masood drafted a letter to the claimant "strongly recommending" that the claimant apply for Social Security disability benefits.[4] In the letter, Dr. Masood stated that the February 27, 2010, MRIs "show[ed] stenosis and disc herniation in [the claimant's] lumbar and cervical spine." Dr. Masood further noted that the claimant had "issues of pain in the neck, back, and lower extremities along with numbness and radiculopathy" and "a history of COPD with a nodule in [his] right lung." Dr. Masood's letter did not reference any connection between any of the claimant's medical conditions and his employment.

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during the week of February 22, 2010, 45.08 hours during the week of March 1, 2010, and 34.65 hours during the week of March 8, 2010.

[4] The letter was dated "March 2, 2009," but Dr. Masood testified that this was a typographical error. Dr. Masood stated that the letter was actually written on March 2, 2010.

¶ 17 On March 12, 2010, the employer informed the claimant that its Bolingbrook terminal was being closed, effective immediately. On March 15, 2010, the claimant came to work to pick up his final check. At that time, he had a conversation with Kovalik. The claimant testified that he told Kovalik that he had sustained a work-related injury, that his neck and back injury was "not over," and that he might never be able to operate a commercial vehicle again because his doctor had recommended that he apply for disability.

¶ 18 Kovalik disputed the claimant's testimony. During his evidence deposition, Kovalik testified that: (1) Kovalik was the only manager of the Bolingbrook facility during the relevant time period; (2) Kovalik was the "focal point" for handling workplace injuries; (3) when work injuries were reported, Kovalik would enter the information into his computer and send it to his immediate manager and to the employer's safety department; (4) the claimant never reported that he injured his back or neck at work; (5) when Kovalik spoke with the claimant on March 15, 2010, the claimant told Kovalik that he "may not be working much longer," but Kovalik was not sure whether this was because of the claimant's health or because of his wife's health; (6) Kovalik first became aware that the claimant was claiming a work-related injury when he spoke with one of the employer's attorneys well after the Bolingbrook facility had been closed; (7) had the claimant reported a work-related injury, Kovalik would have sat down with him, assessed whether medical attention was needed, and completed an incident report; and (8) on a previous occasion, the claimant had failed to report a prior work-related injury, and the employer had initiated disciplinary action against the claimant as a result.

¶ 19 On March 20, 2010, the claimant returned to Dr. Masood. He complained of pain in his neck as well as back pain that radiated into his legs. He told Dr. Masood that he was no longer able to work. The claimant saw Dr. Masood again on April 27, 2010. At that time, the claimant

complained of neck and back pain that radiated sideways. Dr. Masood recommended a neurosurgical consultation and referred the claimant to Dr. Mark Lorenz, an orthopedic surgeon.

¶ 20 That same day, Dr. Masood drafted an opinion letter regarding the claimant's back condition and its potential cause. In the letter, Dr. Masood noted that he was currently treating the claimant for "back pain resulting from a herniated disc," and he opined that the claimant's herniated disc "may have been caused from his duties *** at [the employer]." Dr. Masood stated that the claimant's duties included, but were not limited to: (1) loading and unloading freight; (2) opening and closing roll-up trailer doors that were in poor operating order; (3) pulling dock plates; (4) restacking freight that had fallen over or had been improperly loaded; (5) hooking and unhooking trailers by dolly handles that were poorly maintained; (6) "hooking air lines to hook/drop hook trailer"; and (7) climbing in and out of his truck. Dr. Masood noted that, "[a]ccording to [the claimant], he had no issues of back pain or any past injuries prior to his employment with [the employer." Dr. Masood opined that the claimant was no longer able to drive a truck or lift more than 10 pounds.

¶ 21 On July 26, 2010, the claimant returned to Internal Medicine and Family Practice (Dr. Masood's practice group), complaining of a backache as well as shoulder and neck pain. The claimant did not attribute these problems to a work-related event. The treating doctor assessed spinal stenosis, backache and degenerative disc disease, bilateral upper extremity radiculopathy, and COPD.

¶ 22 On August 11, 2010, the claimant saw Dr. Lorenz for an initial evaluation. Dr. Lorenz's medical record of that visit reflects that the claimant told him that he was in good health until February 19, 2010, when he forced a door open in the back of his truck that did not work well and hurt his back. The claimant completed a patient questionnaire in which he stated that he

began experiencing pain in his spine on February 19, 2010, and that he had no previous problems with his low back. Dr. Lorenz's medical record notes that the claimant also reported "a number of incidences *** where he was bounced on a malfunctioning air-glide chair causing him to strike the top of the cab as he was driving." The claimant testified that he also advised Dr. Lorenz that his back had hurt from other repetitive tasks he performed as a truck driver, including lifting trailer doors. However, Dr. Lorenz's August 11, 2010, medical record does not include any reference to that statement. Upon examination, the claimant exhibited a "fairly significant pain response through essentially all movement and touching of the upper and lower back." However, Dr. Lorenz noted that: (1) the claimant's neurological examination was essentially normal; (2) the MRI of the claimant's lower back was "rather unremarkable"; and the x-rays of the claimant's lower back showed only "very minimal degenerative changes." Dr. Lorenz diagnosed the claimant with chronic pain syndrome that was "probably aggravated by the lifting incident at work." Dr. Lorenz opined that the claimant was unable to work and that he was "definitely not a surgical candidate." He ordered a repeat MRI of the claimant's cervical spine.

¶ 23 The cervical MRI ordered by Dr. Lorenz was performed on August 16, 2010. The MRI revealed degenerative changes at C4-C5 and C5-C6, moderate stenosis at C5-C6, and neural foraminal and mild canal stenosis at C4-C5 and C6-C7.

¶ 24 On December 1, 2011, the claimant underwent a functional capacity examination (FCE). The therapist opined that the claimant demonstrated consistent performance throughout the testing ad that the claimant was able to work at the sedentary level for eight hours per day with occasional lifting of up to 15 pounds.

¶ 25 On December 5, 2011, the claimant returned to Dr. Lorenz. The claimant reported that his back pain was his biggest problem and that he was not concerned about his neck pain. Dr.

Lorenz noted that the claimant had degenerative changes in his cervical and lumbar spine and that his neurological examination was normal. He again concluded that the claimant was not a surgical candidate. Dr. Lorenz concluded that the claimant could work in a sedentary position. He recommended that the claimant return to work within the parameters and restrictions set by the FCE.

¶ 26 During his evidence deposition, Dr. Masood testified that he did not recall whether the claimant reported an acute incident of trauma occurring on February 19, 2010, when he saw the claimant the following day. Nor could Dr. Masood remember whether the claimant had reported such an injury at any time during his treatment. He could not recall whether the claimant reported that he had difficulty opening trailer doors or that he sustained any specific injury from lifting trailer doors. Nor did Dr. Masood recall whether the claimant reported any injuries caused by his bouncing around on a malfunctioning air glide driver's seat. Dr. Masood acknowledged that, if the claimant had reported any such specific incident, he would normally notate the incident in his medical reports.

¶ 27 Dr. Masood testified that the work tasks the claimant was performing as a truck driver during the year leading up to the time he saw the claimant in January and February of 2010 (*i.e.*, the job tasks listed in Dr. Masood's April 27, 2010, opinion letter) aggravated the claimant's cervical and lumbar conditions, rendering them symptomatic. Dr. Masood opined that the claimant's current low back and cervical spine conditions were more related to his driving a truck than to any specific incident of trauma.

¶ 28 During cross-examination, Dr. Masood admitted that the job duties listed in his April 27, 2010, letter were reported to him by the claimant, and Dr. Masood was never able to independently confirm that the information that the claimant gave him about his job duties was

correct. Dr. Masood never reviewed a written description of the claimant's job duties from the employer or a videotape depicting the performance of the claimant's job duties. Dr. Masood did not know the type of truck the claimant drove, how much time each day the claimant spent driving, unloading freight, or performing his other work duties, how much force was required to lift a roll-up door on a trailer, or the average weight of the freight the claimant lifted on the job.

¶ 29 Dr. Masood acknowledged that he had treated the claimant for back pain symptoms on two occasions before January of 2010. In September 2002, the claimant saw Dr. Masood with complaints of low back pain. Dr. Masood prescribed Ibuprofen and a muscle relaxer and ordered x-rays of the claimant's thoracic and lumbar spine. He also recommended an MRI of the "thoracic lower lumbar" spine "to rule out disc herniation" if the claimant's condition did not improve. The x-rays were normal, and the claimant did not undergo an MRI at that time. Dr. Masood's medical records indicate that the claimant underwent another x-ray of his lumbar spine in March of 2007. Although Dr. Masood did not recall ordering that x-ray, he acknowledged that the claimant must have had symptoms of back pain at that time. Dr. Masood opined that the 2002 and 2007 treatments were for muscle strains or spasms, not for degenerative joint disease. Because the 2002 x-ray showed no arthritis, Dr. Masood opined that the 2002 incident was "probably *** just a one-time episode of back pain." Dr. Masood opined that the claimant's degenerative joint disease did not become symptomatic prior to January of 2010.[5]

¶ 30 Dr. Lorenz also testified via evidence deposition. In his deposition, Dr. Lorenz opined that the February 19, 2010, incident aggravated the degenerative condition in the claimant's neck

[5] The claimant admitted having one or two prior complaints of back pain over the 15 years that he treated with Dr. Masood, but nothing "major" and nothing to the extent of the pain he began experiencing in January 2010. During an October 22, 2009, medical examination for a commercial driver fitness determination, the claimant indicated that he had no history of spinal injury or disease and no chronic low back pain.

and lower back. When asked whether lifting trailer doors over the period of time the claimant worked as a truck driver also aggravated his preexisting condition, Dr. Lorenz responded in the affirmative. Although Dr. Lorenz concluded that the claimant did not have any back pain prior to the February 19, 2010, incident, he opined that the degenerative changes in the claimant's spine "could be" related to "chronic lifting and chronic vibrational exposure." Dr. Lorenz explained that "with truckers, it is very common to have a fairly high level of low back and neck pain, including degenerative changes, and that is thought by epidemiologists to be related to their chronic long sitting and vibrational exposure."

¶ 31 Dr. Lorenz confirmed his diagnoses of chronic neck and back pain and chronic pain syndrome. He stated that, when he examined the claimant, the claimant exhibited a "significant pain response essentially with everything that we did, all movements and even touching the upper as well as lower part of his back." Dr. Lorenz noted that the claimant's neurological examination was normal, and he described the claimant's pain complaints as "extraordinary and unexpected." He explained that chronic pain syndrome "suggests a greater pain response that one would expect for the pathology at hand." He further opined that the claimant was permanently restricted to working at a sedentary level and that this work restriction was causally related to both the degenerative changes in the claimant's spine and the February 19, 2010, work incident.

¶ 32 On May 8, 2012, the claimant was evaluated by Dr. Kevin Walsh, an orthopedic surgeon who served as the employer's section 12 independent medical examiner. According to Dr. Walsh's May 16, 2012, medical report, the claimant reporting suffering from low back pain and neck pain and "he believe[d] his neck pain [was] due to repetitive trauma from operating a truck with a bad air seat causing him to strike his head on the roof of the cab and bounce around inside

his cab." The claimant also reported "a history of low back pain which arose after opening the trailer door on February 19, 2010." According to Dr. Walsh's report, the claimant denied having any history of back pain prior to the February 19, 2010, incident.

¶ 33 After examining the claimant and reviewing the claimant's medical records, Dr. Walsh opined that "[i]t is not at all likely the patient's work activity caused any substantial damage to the cervical and lumbar spine." Dr. Walsh opined that "[a]ll of the imaging studies show changes which are consistent with the patient's age," and "[n]one of the imaging studies show anything that specifically can be related to the specific work injury to the [claimant's] cervical spine or chronic injury to the lumbar spine." Dr. Walsh diagnosed the claimant with degenerative changes in the cervical and lumbar spine and subjective complaints of substantial pain and discomfort. He opined that both his examination of the claimant and the claimant's prior imagining studies revealed "a paucity of objective abnormalities." Dr. Walsh further opined that the claimant's subjective complaints were "out of proportion to objective abnormalities," and, more likely than not, were unrelated to a work injury. He noted that the claimant "clearly had positive Waddell signs."

¶ 34 Dr. Walsh further opined that there was "no evidence in the[] medical records that the [claimant] suffered an aggravation or acceleration of a preexisting osteoarthritic spine." Dr. Walsh concluded that, more likely than not, all of the MRI findings were degenerative rather than traumatic in origin. Moreover, Dr. Walsh opined that there was "no evidence that the [claimant's] current subjective complaints were causally related" to the work injuries reported by the claimant.

¶ 35 Dr. Walsh concluded that the claimant "most certainly [was] not a candidate for any surgical intervention." He opined that the claimant required no further medical intervention,

pain management, or work restrictions as a result of his claimed work injuries. Dr. Walsh concluded that the claimant could be released to return to work without restriction based on his objective physical examination and his imaging studies.

¶ 36 During his subsequent evidence deposition, Dr. Walsh testified consistently with his May 16, 2012, medical report. He confirmed that the claimant had reported neck pain which the claimant attributed to repetitive, work-related trauma, and back pain which arose after the February 19, 2010, work incident. Dr. Walsh acknowledged that the February 27, 2010, MRI of the claimant's cervical spine showed abnormalities and that the February 27, 2010, MRI of the claimant's lumbar spine showed a "very tiny" central disc protrusion (*i.e.*, herniation). However, he opined that: (1) it was not likely that the claimant injured his back or neck as a result of his work activities; (2) the claimant's subjective reports of pain were out of proportion to any objective medical findings; (3) the changes seen on the claimant's spinal MRIs were degenerative in nature and were consistent with the claimant's age (and also with the fact that the claimant's symptoms worsened after he stopped working); (4) there was no evidence that the claimant had suffered an aggravation of preexisting degenerative spinal condition; and (5) the degenerative changes to the claimant's lumbar spine shown on the claimant's MRI studies were caused by aging and were not caused by the claimant's work activities.

¶ 37 The arbitrator found that the claimant failed to prove an accident arising out of and in the course of his employment. The arbitrator found that the claimant's testimony lacked credibility in light of the medical evidence. The arbitrator noted that, when the claimant saw Drs. Walsh and Lorenz, he was "quite emphatic" that he sustained an acute injury to his low back while lifting a defective trailer door on February 19, 2010, and that he was asymptomatic beforehand. However, when he saw Dr. Masood on February 20, 2010, the day after the claimed lifting event

of February 19, 2010, the claimant did not report any incident occurring the day before. In fact, Dr. Masood testified that the claimant never reported injuring himself on February 19, 2010, and Dr. Masood's treatment records are "devoid of any mention of [the claimant] injuring his low back or neck at work either on February 19, 2010 or in the performance of his regular duties." When [the claimant] was seen on February 20, 2010." The arbitrator found it "blatantly incredible that [the claimant] would not mention an acute incident of trauma to his primary doctor one day after it had occurred but later report its occurrence to several medical experts."

¶ 38 Moreover, the arbitrator found the claimant's report that he was asymptomatic until February 19, 2010, to be contrary to the evidence. The arbitrator noted that Dr. Masood's medical records reflect that the claimant complained of low back or neck conditions in 2002, more than eight years prior to the alleged incident of February 19, 2010.

¶ 39 Further, the arbitrator found that there was "no indication in either the testimony or the medical records that [the claimant] had any complaints contemporaneous with any particular work activity." The arbitrator noted that Kovalik, the claimant's manager, denied that the claimant had ever reported complaints or an injury related to his low back or neck. The Commission found it "unbelievable that *** Kovalik would initiate disciplinary action against [the claimant] for his failure to report a previous work related injury, but then neglect to document injuries when [the claimant] allegedly reported them on February 19, 2010 and March 15, 2010."

¶ 40 Based on all these facts, the arbitrator concluded that the claimant "did not sustain an accident on February 19, 2010," and found all remaining issues moot.

¶ 41 The claimant appealed the arbitrator's decision to the Illinois Workers' Compensation Commission (Commission). The Commission unanimously affirmed and adopted the arbitrator's

decision. The claimant then sought judicial review of the Commission's decision in the circuit court of Will County, which confirmed the Commission's decision.

¶ 42 This appeal followed.

¶ 43 ANALYSIS

¶ 44 On appeal, the claimant argues that the Commission erred as a matter of law by failing to consider the merits of his repetitive trauma claim. In the alternative, the claimant contends that the Commission's finding that he failed to prove a repetitive trauma injury was against the manifest weight of the evidence. We address these claims in turn.

¶ 45 The claimant argues that the Commission erred by failing to address the merits of his repetitive trauma claim and by analyzing his claim under the wrong legal theory. According to the claimant, the Commission found only that the claimant failed to prove a *traumatic accidental injury* on February 19, 2010, and did not address the repetitive trauma claim actually pled by the claimant (which alleged February 19, 2010, as a *manifestation date*, not the date of a traumatic injury). The claimant notes that the Commission's decision contains no references to "repetitive trauma" or to "manifestation date," and he maintains that all of the Commission's stated legal findings relate entirely to its conclusion that the claimant failed to prove a traumatic injury on February 19, 2010 (a claim that the claimant never raised or argued). The claimant maintains that the Commission erred as a matter of law by failing to consider and decide his repetitive trauma claim on its merits according to the proper legal theory. More specifically, the claimant contends that the Commission erred by failing to consider whether the date of injury he alleged in his Application for Adjustment of claim (February 19, 2010) was an appropriate manifestation date for his alleged repetitive trauma. Citing our decisions in *Edward Hines Precision Components v. Industrial Comm'n*, 356 Ill. App. 3d 186 (2005), and *Luttrell v. Industrial*

Comm'n, 154 Ill. App. 3d 943 (1987), the claimant argues that we should remand this matter to the Commission so that his repetitive trauma claim may be properly analyzed and decided.

¶ 46 The claimant in a worker's compensation proceeding has the burden of proving by a preponderance of the credible evidence that he suffered an accidental injury which arose out of and in the course of his employment. *Paganelis v. Industrial Comm'n*, 132 Ill. 2d 468, 480 (1989). An injury is considered "accidental" under the Act if it is caused by the performance of a claimant's job, even though it develops gradually over a period of time as a result of repetitive trauma. *Peoria County Belwood Nursing Home v. Industrial Comm'n*, 115 Ill. 2d 524, 529–30 (1987); *Fierke v. Industrial Comm'n*, 309 Ill. App.3d 1037, 1040 (2000). A claimant alleging a repetitive trauma need not prove a specific traumatic injury or a "final, identifiable episode of collapse" during which the claimant's bodily structure suddenly gave way. *Luttrell*, 154 Ill. App.3d at 957. However, an employee who alleges injury based on repetitive trauma must meet the same standard of proof as other workers' compensation claimants alleging "accidental injury"; there must be a showing that the injury is work-related and not a result of the normal degenerative aging process. *Peoria County Belwood Nursing Home*, 115 Ill. 2d at 530; *Edward Hines Precision Components*, 356 Ill. App. 3d at 194. The date of injury in repetitive trauma cases is the date on which the injury manifests itself, meaning the date on which the fact of the injury and the causal relation to work would have become plainly apparent to a reasonable person. *Edward Hines Precision Components*, 356 Ill. App. 3d at 194.

¶ 47 Although the Commission's decision in this case primarily discusses the claimant's failure to prove a traumatic injury on February 19, 2010, it acknowledges that the claimant brought a claim for repetitive trauma and it appears to reject that claim as well. At the beginning of its "Findings of Fact" section, the Commission's decision states that "[t]his case involves a

petitioner claiming injuries to his low back and neck due to an alleged accident on February 19, 2010," but then immediately notes that the accident alleged by the claimant "*is both traumatic and repetitive in nature*." (Emphasis added.) Moreover, in its "Conclusions of Law" section, the Commission notes that, in finding that the claimant had failed to prove a work-related accident, the Commission "look[ed] to the complete medical records of Dr. Masood which are devoid of any mention of [the claimant] injuring his low back or neck at work either on February 19, 2010 *or in the performance of his regular duties*." (Emphasis added.) These statements indicate that the Commission was aware of the claimant's repetitive trauma claim, that it considered and weighed evidence that undermined any such claim, and that it implicitly found that the claimant had failed to prove a work-related accident under a repetitive trauma theory. Although the Commission erred by focusing its analysis primarily on a traumatic injury claim that was not raised by the claimant, its decision reflects that it also considered and rejected the claimant's repetitive trauma claim.[6]

¶ 48 Contrary to the claimant's argument, the fact that the Commission's decision does not reference the manifestation date alleged by the claimant or include the phrase "repetitive trauma" does not establish that the Commission failed to consider the claimant's claim. The phrase "repetitive trauma" and the concept of a manifestation date were developed "in order to establish a date of accidental injury for purposes of determining when limitations statutes, and notice requirements, begin to run." *Peoria County Belwood Nursing Home*, 115 Ill. 2d at 530-31; see

[6] Apparently, the Commission erroneously assumed that the claimant had alleged both a repetitive trauma injury and a traumatic injury sustained on February 19, 2010. It likely made this assumption because Drs. Lorenz and Walsh each opined as to the causal connection between the claimant's current neck and lower back conditions and the February 19, 2010, work incident. It is not surprising that Drs. Lorenz and Walsh rendered opinions on that issue given that the claimant had told each of them that he felt back pain (*i.e.*, that his preexisting back condition became symptomatic) for the first time during the February 19, 2010, work incident.

also *Edward Hines Precision Components*, 356 Ill. App. 3d at 194. Thus, where the dates of manifestation or notice are not at issue, the use, or nonuse, of such terms is irrelevant. *Edward Hines Precision Components*, 356 Ill. App. 3d at 194. Here, the Commission found that the claimant failed to prove a work-related accident. It could have reached that conclusion by determining that the testimony and medical evidence did not support a claim for a work-related repetitive trauma. The Commission did not need to address the propriety of the manifestation date asserted by the claimant to find that the claimant failed to prove a work-related repetitive trauma injury.

¶ 49 In addition, contrary to the claimant's assertion, *Luttrell* does not support the claimant's argument that we should remand this matter to the Commission for further (or more explicit) consideration of his repetitive trauma claim. In *Luttrell*, the claimant, who suffered from carpal tunnel syndrome, originally filed a claim for repetitive trauma under the Act, but requested during the arbitration hearing that his claim be considered under the Occupational Diseases Act (ODA) (820 ILCS 310/1 *et seq.* (West 2010)). The arbitrator denied benefits and the Commission affirmed. The circuit court affirmed the Commission's decision. After the Commission issued its decision, our supreme court decided *Peoria County Belwood Nursing Home*, which recognized claims for repetitive trauma under the Act. On appeal, we held that carpal tunnel syndrome is not a "disease" under the ODA and remanded the matter to the Commission for consideration of the claimant's repetitive trauma claim under the Act pursuant to *Peoria County Belwood Nursing Home*. *Luttrell*, 154 Ill. App. 3d at 957. We ordered the remand pursuant to section 19(a)(2) of the Act, which provides for the amendment of claims and the taking of further evidence by the Commission whenever a claimant "misconceives his remedy" by filing a claim under the ODA that should have been filed under the Act. 820 ILCS

305/19(a)(2) (West 2010). In this case, the claimant has not "misconceived" his remedy by filing his claim under the ODA. To the contrary, he has already raised a claim for repetitive trauma under the Act which the Commission has considered and rejected. Thus, unlike in *Luttrell*, section 19(a)(2) of the Act does not apply here, and there is no need for a remand.

¶ 50 In any event, even assuming *arguendo* that the Commission did not properly analyze the claimant's repetitive trauma claim, we could still affirm the Commission's decision. "We may affirm the Commission's decision on any basis supported by the record regardless of the Commission's findings or its reasoning." *Dukich v. Illinois Workers' Compensation Comm'n*, 2017 IL App (2d) 160351WC, ¶ 43 n.6; see also *General Motors Corp. v. Industrial Comm'n*, 179 Ill. App. 3d 683, 695 (1989). In other words, we review the result reached by the Commission, not the Commission's reasoning. The Commission's judgment in this case was that the claimant filed to prove a compensable work-related accident. The dispositive question is whether that judgment is against the manifest weight of the evidence, regardless of the rationale stated by the Commission.

¶ 51 This brings us to the alternative argument raised by the claimant in this appeal. The claimant argues that the Commission's finding that he failed to prove a work-related accident was against the manifest weight of the evidence. As noted above, to prove a work-related accident under a repetitive trauma theory, the claimant must prove that the injury is work-related and not a result of the normal degenerative aging process. *Peoria County Belwood Nursing Home*, 115 Ill. 2d at 530; *Edward Hines Precision Components*, 356 Ill. App. 3d at 194. In cases alleging repetitive trauma, the claimant generally relies on medical testimony establishing a causal connection between the work performed and the claimant's disability. *Nunn v. Illinois Industrial Comm'n*, 157 Ill. App. 3d 470, 477 (1987). A claimant may recover for the

aggravation or acceleration of a preexisting condition by a work-related repetitive trauma. *Cassens Transport Co., Inc. v. Industrial Comm'n*, 262 Ill. App. 3d 324, 331 (1994). To be recoverable, the claimant's work-related injury need not be the sole factor that aggravates a preexisting condition, as long as it is a factor that contributes to the disability. *Azzarelli Construction Co. v. Industrial Comm'n*, 84 Ill.2d 262, 267 (1981); *Cassens Transport*, 262 Ill. App. 3d at 331. Cases involving aggravation of a preexisting condition primarily concern medical questions, not legal questions. *Nunn*, 157 Ill. App. 3d at 478. This is particularly true in a repetitive trauma case, where the claimant must show that the injury is work related and not the result of a normal degenerative aging process. *Id.*

¶ 52 The existence of an accidental injury arising out of and in the course of employment is a question of fact for the Commission. *Cassens Transport*, 262 Ill. App. 3d at 331. Thus, where the claimant alleges accidental injuries caused by a repetitive trauma, it is for the Commission to determine whether a claimant's disability is attributable solely to a degenerative condition or to an aggravation of a preexisting condition due to a repetitive trauma. *Id.* It is also the Commission's province to judge the credibility of witnesses, to determine the weight to be given to their testimony, to draw reasonable inferences from the evidence, to resolve conflicts in the evidence (including conflicting medical testimony), to draw reasonable inferences from the evidence, and to choose among conflicting reasonable inferences. *Williams v. Industrial Comm'n*, 244 Ill. App. 3d 204, 209 (1993); *Fierke*, 309 Ill. App. 3d at 1039; *Fickas v. Industrial Comm'n*, 308 Ill. App. 3d 1037, 1041 (1999). We may overturn the Commission's factual determinations only when they are against the manifest weight of the evidence (*Williams*, 244 Ill.App.3d at 210), *i.e.*, only when the opposite conclusion is clearly apparent (*Westin Hotel v. Industrial Comm'n,* 372 Ill. App. 3d 527, 539 (2007)).

¶ 53 Applying these standards, we cannot say that the Commission's finding that the claimant failed to prove a work-related repetitive trauma injury was against the manifest weight of the evidence. Dr. Walsh opined that: (1) it was "not at all likely" that the patient's work activity caused any substantial damage to his cervical and lumbar spine; (2) the claimant's subjective reports of pain were out of proportion to any objective medical findings; (3) the changes seen on the claimant's spinal MRIs were degenerative in nature and were consistent with the claimant's age; (4) there was no evidence that the claimant had suffered an aggravation of preexisting degenerative spinal condition; and (5) the degenerative changes to the claimant's lumbar spine shown on the MRI studies were caused by aging and were not caused by the claimant's work activities or by any "chronic," work-related injury to the claimant's lumbar spine. Although Dr. Masood's and Dr. Lorenz's opinions conflicted with Dr. Walsh's opinions and provided some support for the claimant's repetitive trauma claim, it was the Commission's province to resolve conflicts in the medical opinion evidence. *Williams*, 244 Ill. App. 3d at 209; *Fickas*, 308 Ill. App. 3d at 1041. The Commission's decision to credit Dr. Walsh's opinions over those of Drs. Masood and Lorenz was not against the manifest weight of the evidence.[7]

¶ 54 Moreover, the claimant's testimony regarding his alleged repetitive trauma injuries was somewhat questionable given his inconsistent accounts of the date when he began experiencing back pain, his failure to produce evidence supporting his claim of repetitive trauma due to a malfunctioning driver's seat in his truck, his failure to report the alleged February 19, 2010, incident to Dr. Masood when he saw him the following day, the absence of an incident report for

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[7] The Commission's decision to reject Dr. Masood's opinion that the claimant's job duties aggravated his preexisting cervical and lumbar spine conditions was reasonable because the foundation of Dr. Masood's opinion was shown to be dubious. During cross-examination, Dr. Masood acknowledged that, in rendering his causation opinion, he relied on the claimant's description of his job duties, he did not independently confirm the claimant's account of his duties, and he knew little about the nature of those duties.

that incident, and Kovalik's testimony that the claimant never reported experiencing a work-related injury to his back or neck.

¶ 55 Accordingly, there was ample evidence supporting the Commission's finding that the claimant failed to prove a work-related repetitive trauma. An opposite conclusion is not clearly apparent. We therefore affirm the Commission's decision. Because we affirm the Commission's finding of no work-related accident, we do not need to address the claimant's arguments regarding TTD and wage differential benefits.

¶ 56 CONCLUSION

¶ 57 For the foregoing reasons, we affirm the judgment of the circuit court of Will County, which confirmed the Commission's decision.

¶ 58 Affirmed.