

Order filed May 2, 2019

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

JEFF FLATT,)	Appeal from the
)	Circuit Court of
Petitioner-Appellant,)	Peoria County.
)	
v.)	No. 16-MR-0749
)	No. 3-17-0715WC
ILLINOIS WORKERS' COMPENSATION)	
COMMISSION and CATERPILLAR, INC.,)	Honorable
)	James A. Mack,
Respondents-Appellees.)	Judge, presiding.

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

ORDER

¶ 1 *Held:* We affirmed the circuit court's order which confirmed the Commission's decision denying the claimant benefits under the Workers' Compensation Act where the Commission's finding that the claimant failed to prove that his current condition of ill-being was causally related to the work accident was not against the manifest weight of the evidence.

¶ 2 The claimant, Jeff Flatt, appeals a judgment of the circuit court confirming a decision of the Illinois Workers' Compensation Commission (Commission) denying his claim for benefits under the Illinois Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2014)). The claimant argues that the Commission's findings that he failed to prove (1) that his knee injury arose out of and in the course of his employment and (2) that his condition of ill being was causally related to his employment were against the manifest weight of the evidence. We affirm.

¶ 3 I. Background

¶ 4 The claimant filed an application for adjustment of claim pursuant to the Act alleging that he sustained an injury to his left knee on December 3, 2013, while working as a machine operator for the respondent, Caterpillar, Inc. (employer). While the facts relating to the claimant's left knee injury are generally not disputed, the parties presented conflicting expert medical opinions. The following factual recitation was taken from the evidence adduced at the arbitration hearing on October 23, 2015, and the record on appeal.

¶ 5 On January 29, 2011, the claimant sustained an injury to his left knee when his foot caught on a hose as he attempted to climb a two-step platform at work. On September 12, 2011, Dr. Stephen Orlevitch examined the claimant's knee. At that time, the claimant reported that he suffered from type II diabetes and arthritis. Dr. Orlevitch's medical examination of the claimant's knees revealed severe crepitation of both patellofemoral joints with active flexion. While the x-rays of the claimant's knees revealed some medial compartment narrowing and moderate to severe patellofemoral

degenerative changes, Dr. Orlevitch observed well-preserved tibiofemoral joints. Based on his examination and review of the x-rays, Dr. Orlevitch opined that the claimant's left knee had moderate to severe degenerative changes in the patellofemoral joint, mild degenerative changes in the medial compartment and a possible cartilage tear. Between September 12, 2011, and January 9, 2012, the claimant received four lubricant injections in his left knee.

¶ 6 On January 9, 2012, the claimant presented to Dr. Orlevitch and reported ongoing issues, specifically, crepitation in both knees. Dr. Orlevitch advised the claimant that his severe arthritis would cause intermittent mechanical symptoms throughout his life. Dr. Orlevitch ultimately recommended that the claimant undergo an arthroscopic debridement of the patellofemoral joint and examination of the medial and lateral compartments. Dr. Orlevitch indicated that, although surgery would reduce the claimant's knee pain, it was unlikely that the procedure would eliminate the need for future lubrication and cortisone injections.

¶ 7 On February 15, 2012, Dr. Orlevitch performed surgery on the claimant's left knee. The claimant's knee surgery included an arthroscopic partial medial and lateral meniscectomy with chondroplasty of the medial and lateral compartment, chondroplasty of the patellofemoral joint, microfracture of the trochlear groove, and arthroscopic lateral retinacular release, as well as excision of loose bodies. Dr. Orlevitch's post-operative report indicated that the claimant's left knee had severe patellofemoral arthritis with kissing osteonecrosis of the lateral facet and apex of the patella with lateral tilt and compression; tricompartment degenerative changes; loose body suprapatellar pouch;

grade IV trochlear groove; severe grade III patella apex; and a lateral flap tear of the posterior horn medial meniscus with severe grade III erosions of the medial femoral condyle.

¶ 8 As of February 24, 2012, the claimant's left knee had significantly improved with no tenderness or evidence of edema in his lower leg. The claimant reported that he continued to experience some mild swelling and some calf tightness. On June 1, 2012, the claimant was approved to return to work with restrictions, which included no repetitive kneeling or climbing. Shortly thereafter, the claimant received a series of five lubricant injections in his left knee.

¶ 9 On July 20, 2012, the claimant reported that he experienced a locking sensation in his left knee. The claimant explained that his left knee would stiffen if he sat for an extended period of time, which made it difficult to stand. The claimant continued to work with restrictions.

¶ 10 On August 24, 2012, the claimant reported that his left knee had worsened after he climbed two flights of stairs at work when the escalator was out of service. At Dr. Orlevitch's recommendation, the claimant underwent another series of injections, including five Hyalgan injections. On February 1, 2013, the claimant received the final injection and reported that his left knee had improved.

¶ 11 The claimant testified that, despite ongoing issues with his left knee, he did not see a doctor again until December 3, 2013. The claimant explained that he scheduled a follow-up appointment for April 26, 2013, but forgot to attend his appointment because his left knee had improved. The claimant further explained that the residual knee pain

was tolerable and did not interfere with his ability to perform activities of daily living or work during that period. He testified that he did not have difficulty performing his job duties, with the imposed work restrictions, between April 2013 and December 2013.

¶ 12 On December 3, 2013, the claimant was operating a "liner line machine," which required him to step down from an eight-inch platform to check various parts of the machine every 15 minutes. According to the claimant, when he stepped down from the platform, he felt a twisting sensation and experienced immediate pain in his left knee and ankle. He was subsequently transported by ambulance to Proctor Hospital for treatment where an examination of his left knee revealed mild tenderness. The ambulance records reflect that the claimant's knee pain, as result of the accident, had subsided by the time the ambulance arrived. An x-ray of the claimant's left knee revealed mild osteoarthritis with no acute fractures or dislocations. The claimant's condition was diagnosed as a left knee sprain.

¶ 13 Kevin Smith (Smith), the group manager for the liner line, testified to the following. Smith explained that the claimant had to step on and off the platform more often to make repairs when a machine part malfunctioned. The machine, however, had a railing that the claimant could use when he stepped on and off the platform.

¶ 14 On December 9, 2013, the claimant provided a consistent history of the accident and the mechanism of injury to Dr. Orlevitch. The claimant informed Dr. Orlevitch's nurse that, since his December 3, 2013 injury, he had experienced a popping sensation, instability and increased pain in his left knee. Dr. Orlevitch recommended additional injections, concluding that the claimant had exacerbated his underlying arthritis. The

claimant returned to work on December 16, 2013. Roughly one month later, the claimant received a series of three lubricant injections to his left knee.

¶ 15 In March 2014, the claimant presented to Dr. Orlevitch for an additional evaluation. The claimant reported that the injections temporarily relieved his knee pain for one week. After that time, however, the pain had increased and made it difficult to climb stairs and sleep. Because the recent injections did not provide therapeutic relief, unlike the previous injections, the claimant received a cortisone injection in his left knee.

¶ 16 On May 20, 2014, the claimant reported to Dr. Orlevitch that the injection had temporarily relieved his pain, but that his symptoms had returned after a week and were affecting his activities of daily living. As a result, Dr. Orlevitch referred the claimant to Dr. Capecci, an orthopedic surgeon, to evaluate the claimant to determine if a total knee replacement was necessary.

¶ 17 The claimant testified that his left knee never returned to baseline following the December 3, 2013, accident. According to the claimant, his pain had increased to 8/10 and was affecting his daily activities of sleeping, walking and climbing stairs. The claimant explained that, unlike previous injections, the injections administered after the accident provided only temporary relief.

¶ 18 On June 18, 2014, the claimant presented to Dr. Piero Capecci for the recommended knee replacement evaluation. After examining the claimant and reviewing the x-rays, MRI and intra-operative images of his left knee, Dr. Capecci diagnosed the claimant with severe tri-compartmental arthritis in the left knee, most notably in the patella-femoral joint. Dr. Capecci also noted that the claimant's left knee caused him

significant pain that affected his quality of life and his ability to carry out simple activities of daily living. Dr. Capecci recommended total knee replacement surgery.

¶ 19 In October 2014, the claimant presented for an appointment with Dr. Capecci. The claimant requested additional cortisone injections because the pain was affecting his quality of life. In particular, the claimant's weight loss attempts were halted by his substantially decreased ability to exercise. As a result, the claimant desired knee replacement surgery.

¶ 20 The claimant was also seen by Dr. David Fletcher, an occupational medicine specialist, at his attorney's request. Dr. Fletcher agreed with Dr. Capecci that the claimant needed total knee replacement surgery. After reviewing the medical records, Dr. Fletcher noted that the claimant had functioned reasonably well after his pre-accident injection in February 2013. Dr. Fletcher noted, however, that the claimant had suffered an immediate onset of symptoms following the December 3, 2013, accident, and that the claimant had remained symptomatic since that accident. Dr. Fletcher opined that the claimant's knee buckled due to his underlying arthritis and his act of stepping off the platform. Dr. Fletcher concluded that the December 3, 2013, accident had permanently aggravated the underlying arthritis in the claimant's left knee. Dr. Fletcher also suggested that his opinion may have differed if the claimant had experienced a gradual onset of increased symptoms between February 2013 and December 3, 2013.

¶ 21 Dr. Steven McCaw, a biomechanical expert, testified to the following. Dr. McCaw had reviewed the relevant facts surrounding the December 3, 2013, accident and the medical records pertaining to the claimant's pre-accident treatment. Dr. McCaw believed

that descending from stairs put more force on an individual's leading leg and knee than normal walking. Dr. McCaw also stated that a higher step would generate a higher degree of force on the leading leg. Dr. McCaw further opined that the claimant's arthritis placed him at a greater risk of falling than the general public.

¶ 22 Andrew Schnieder, the employer's corporate safety officer, testified that a standard step has a seven-inch rise, while the platform traversed by the claimant had an eight-inch rise. He also testified that the height of the platform was within OSHA guidelines.

¶ 23 On November 17, 2014, the claimant underwent a section 12 examination by Dr. Ira Kornblatt, a board certified orthopedic surgeon, at the employer's request. Dr. Kornblatt testified that the claimant had pre-existing moderate arthritis of the left knee, which was aggravated by his obesity. Dr. Kornblatt opined that the claimant's knee buckling could have resulted from the underlying arthritis and obesity. While Dr. Kornblatt acknowledged that the act of stepping down would increase the force across the knee, Dr. Kornblatt concluded that the December 3, 2013, accident amounted to a temporary aggravation of the claimant's underlying arthritis. In fact, Dr. Kornblatt noted that the claimant had recovered by the time Dr. Kornblatt conducted an examination of his left knee. Dr. Kornblatt further observed that the initial injections had improved the claimant's symptoms, so the claimant did not obtain needed treatment in the months prior to the accident. Due to the claimant's obesity, Dr. Kornblatt recommended physical therapy as opposed to total knee replacement surgery.

¶ 24 On December 1, 2015, the arbitrator issued a decision finding that the claimant had suffered an injury that arose out of and in the course of his employment, and that his

condition of ill-being was casually related to the December 3, 2013, accident. In so finding, the arbitrator determined that stepping down from the platform presented a neutral risk, but that the claimant was exposed to a greater risk because of his employment. The arbitrator also found that the claimant had aggravated his left knee condition by stepping down from the platform, which was a causative factor for total knee replacement.

¶ 25 The claimant filed a petition for review of the arbitrator's decision before the Commission. On September 22, 2016, the Commission issued an order reversing the arbitrator's decision, finding the claimant had failed to establish that he sustained a work-related accident arising out of his employment on December 3, 2013. The Commission also concluded that, even if the claimant had proven a work-related accident, the medical evidence failed to show that the incident aggravated or accelerated the claimant's pre-existing, degenerative knee condition. The Commission specifically found that the claimant's "knee gave way due to his degenerative condition and not due to a risk associated with his employment." Accordingly, the Commission denied the claimant's request for compensation under the Act.

¶ 26 The claimant sought judicial review of the Commission's decision in the circuit court. On October 16, 2017, the circuit court confirmed the Commission's decision finding that the Commission's determinations were not against the manifest weight of the evidence. This appeal followed.

¶ 27

II. Analysis

¶ 28 On appeal, the claimant argues that the Commission's findings—that he failed to establish (1) he sustained an injury that arose out of and in the course of his employment and (2) a causal connection between his current knee condition and his employment—were against the manifest weight of the evidence. Because the issue is dispositive, we first consider the Commission's finding that claimant failed to prove a causal connection between his current condition of ill-being and his work accident. According to the claimant, the manifest weight of the evidence established that the December 3, 2013, accident aggravated or accelerated his pre-existing knee condition. We disagree.

¶ 29 Whether a causal relationship exists between a claimant's employment and his current condition of ill-being is a question of fact to be resolved by the Commission, and its resolution of the issue will not be disturbed on review unless it is against the manifest weight of the evidence. *Certi-Serve, Inc. v. Industrial Comm'n*, 101 Ill. 2d 236, 244 (1984). It is the function of the Commission to decide questions of fact, judge the credibility of witnesses, determine the weight to be accorded to their testimony, and resolve conflicting medical evidence. *O'Dette v. Industrial Comm'n*, 79 Ill. 2d 249, 253 (1980). Whether a reviewing court might reach the same conclusion is not the test; rather, the appropriate test is “whether there is sufficient evidence in the record to support the Commission's decision.” *Benson v. Industrial Comm'n*, 91 Ill. 2d 445, 450 (1982).

¶ 30 To be compensable under the Act, a claimant must prove, by a preponderance of the evidence, that the accidental injury was one “arising out of and in the course of the employment.” 820 ILCS 305/2 (West 2014); see *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 203 (2003). “For an injury to ‘arise out of’ the employment its origin must be

in some risk connected with, or incidental to, the employment so as to create a causal connection between the employment and the accidental injury." *Potenzo v. Illinois Workers' Comp. Comm'n*, 378 Ill. App. 3d 113, 116 (2007) (quoting *Caterpillar Tractor Co.*, 129 Ill. 2d at 58). "[I]n addition to a claimant proving that he or she was exposed to some risk that the public does not experience, it is also necessary that the claimant show that a work-related accident was a causative factor in the claimant's condition of ill-being." *St. Elizabeth's Hosp. v. Workers' Comp. Comm'n*, 371 Ill. App. 3d 882, 887 (2007).

¶ 31 A work-related injury need not be the sole or principal causative factor, as long as it was a causative factor in the resulting condition of ill-being. *Sisbro, Inc.*, 207 Ill. 2d at 205. Thus, even if a claimant had a pre-existing degenerative condition which made him more vulnerable to injury, recovery for an accidental injury will not be denied as long as he can show that his employment was also a causative factor. *Id.* at 205; see also *Swartz v. Illinois Industrial Comm'n*, 359 Ill. App. 3d 1083, 1086 (2005). A claimant may establish a causal connection in such cases if he can show that a work-related injury played a role in aggravating or accelerating his preexisting condition. *Mason & Dixon Lines, Inc. v. Industrial Comm'n*, 99 Ill. 2d 174, 181 (1983); *Azzarelli Construction Co. v. Industrial Comm'n*, 84 Ill. 2d 262, 266 (1981); see also *Swartz*, 359 Ill. App. 3d at 1086.

¶ 32 Here, the Commission considered the evidence and found that the claimant failed to prove that his current condition of ill-being was causally related to his work accident. Specifically, the Commission found that the December 3, 2013, accident "caused a very temporary increase in [the claimant's] pain" and that there was no evidence showing the

accident caused a change in his condition. In applying the deferential standard applicable to our review, we cannot say that the Commission's finding was against the manifest weight of the evidence.

¶ 33 The Commission found it significant that the claimant testified that, prior to the accident, he was aware that he would eventually need a knee replacement. The medical records further demonstrated that, prior to the accident, the claimant was overweight and suffered from a degenerative knee condition. In particular, the claimant's left knee showed moderate to severe patellofemoral degenerative changes and mild degenerative changes in the medial compartment. The records also show that the claimant underwent a series of injections in his left knee to alleviate pain in January 2012, although Dr. Orlevitch noted that the claimant's mechanical symptoms would likely persist throughout his life due to his severe arthritis. Additionally, Dr. Orlevitch performed left knee arthroscopic surgery on the claimant in February 2012, which revealed the following: severe patellofemoral arthritis with kissing osteonecrosis of the lateral facet; apex of the patella with lateral tilt and compression; tricompartment degenerative changes; a loose body suprapatellar pouch; a grade IV trochlear groove; severe grade III patella apex; and a lateral flap tear of the posterior horn of the medial meniscus with severe grade III erosions of the medial femoral condyle. The Commission correctly stated that all of these medical findings preceded the claimant's December 3, 2013, accident.

¶ 34 Moreover, the ambulance report reflected that the increased pain the claimant experienced in his left knee immediately following the December 3, 2013, accident had returned to baseline by the time the ambulance arrived at the hospital. The medical

records following the December 3, 2013, accident demonstrated that the claimant was diagnosed with a left knee sprain but no internal derangement of his left knee. In fact, the records showed that the claimant received treatment for mild tenderness in the left knee with no signs of effusion, edema, swelling, fracture or dislocation. The x-rays taken on December 3, 2013, revealed mild osteoarthritis in the left knee with no acute fractures or dislocations, which was similar to the x-ray taken on September 12, 2011.

¶ 35 The Commission was also presented with the conflicting medical opinions of Dr. Kornblatt and Dr. Fletcher. Dr. Kornblatt opined that the December 3, 2013, accident amounted to a temporary aggravation of the claimant's pre-existing knee condition, while Dr. Fletcher opined that the accident permanently aggravated the claimant's underlying condition. The Commission found Dr. Kornblatt's medical opinion more persuasive, noting that Dr. Fletcher's opinion was unsupported by the medical records. As stated, it is the function of the Commission to judge the credibility of witnesses, determine the weight to be accorded to their testimony and resolve conflicting medical evidence, and, based upon the record before us, we cannot say that the Commission's resolution of those issues is against the manifest weight of the evidence.

¶ 36 Although different conclusions and inferences could have been drawn from the evidence, we cannot say that an opposite conclusion to that of the Commission was clearly apparent. Because the Commission's finding on the issue of causal connection was not against the manifest weight of the evidence, we find it unnecessary to address the claimant's arguments regarding the Commission's finding on the issue of accidental injury. See *Gen. Motors Corp. v. Indus. Comm'n*, 179 Ill. App. 3d 683, 695 (1989) (A

reviewing court may affirm the Commission's decision if there is any legal basis in the record to support its decision regardless of the Commission's findings or reasoning).

¶ 37

III. Conclusion

¶ 38 For the foregoing reasons, we affirm the circuit court's judgment that confirmed the Commission's decision.

¶ 39 Affirmed.