

NOTICE

Decision filed 2/5/13. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

NOTICE

This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

2013 IL App (2d) 120380WC-U

No. 2-12-0380WC

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

LETICIA VERELA,

Appellant,

v.

ILLINOIS WORKERS' COMPENSATION  
COMMISSION, *et al.*, (Ask Products, Inc.,

Appellee).

) Appeal from the  
) Circuit Court of  
) Kane County.

)  
)  
) No. 11-MR-352

)  
)  
) Honorable  
) Thomas Mueller,  
) Judge, presiding.

JUSTICE STEWART delivered the judgment of the court.

Presiding Justice Holdridge and Justices Hoffman, Hudson and Harris concurred in the judgment.

**ORDER**

¶ 1 *Held:* The Commission's finding that the claimant failed to prove that her condition

of ill-being is causally related to her workplace accident is not against the manifest weight of the evidence. The Commission's finding that the claimant is not entitled to medical bills is not against the manifest weight of the evidence. The Commission's finding that the claimant is not entitled to a prospective lumbar fusion surgery is not against the manifest weight of the evidence. The Commission's finding that the claimant is not entitled to temporary total disability benefits is not against the manifest weight of the evidence.

¶ 2 The claimant, Leticia Verela, worked for the employer, Ask Products, Inc., as a machine operator. On October 31, 2008, she was involved in a work-related accident when she slipped on a patch of oil on the employer's floor. The claimant caught herself on a machine and did not fall to the ground, but she twisted her low back. Thereafter, the claimant began suffering from back and leg pain and has been examined and treated by several physicians whose opinions vary concerning the nature and extent of the claimant's injury. The claimant filed a claim pursuant to the Illinois Workers' Compensation Act (the Act) (820 ILCS 305/1 to 30 (West 2010)). After an expedited hearing pursuant to section 19(b) of the Act, 820 ILCS 305/19(b) (West 2010), the arbitrator found that the claimant failed to prove that her current condition of ill-being was causally related to the workplace accident. The arbitrator also denied the claimant's request for medical expenses, temporary total disability (TTD) benefits, and expenses for a prospective lumbar fusion surgery. The claimant appealed the arbitrator's decision to the Illinois Workers' Compensation Commission (the Commission). The Commission unanimously affirmed and adopted the arbitrator's decision. The claimant appealed to the circuit court, and the circuit court entered a judgment confirming the Commission's decision. The claimant appeals the circuit court's judgment.

¶ 3

## BACKGROUND

¶ 4 The claimant testified that she had been working for the employer for about three months on October 31, 2008, when she slipped at work on an oily floor. The claimant's right foot slipped. She caught herself by grabbing onto a nearby machine and did not fall to the floor. However, in the process, she twisted her body to the right and immediately began experiencing pain in her lower back on the right side and in her right leg. At the time of the accident, she was 36 years old and had not had any previous treatments for conditions in her low back. She notified her supervisor of her accident and continued working that day. She continued working for several days after the accident and treated her low back pain with Tylenol. Finally, on November 3, 2008, the claimant sought medical treatment at Dreyer Medical Clinic where she was treated by Dr. William Johnston.

¶ 5 Dr. Johnston wrote in his November 3, 2008, notes that the claimant suffered from a lumbosacral sprain. He instructed her to ice her back and gave her ibuprofen, Flexeril, and IcyHot. He limited the claimant to no prolonged standing, alternating sitting/standing, only occasional climbing, bending, stooping, and twisting, and no lifting over 20 pounds.

¶ 6 On November 10, 2008, the claimant returned to Dr. Johnston, and he noted that the claimant had an allergic reaction to either an anti-inflammatory or a muscle relaxant medication. He took her off of both medications and instructed her to take Tylenol as her sole medication. The claimant complained of continued back pain, and Dr. Johnston prescribed physical therapy because she was "beginning to lose a bit of mobility." He also encouraged her to perform home stretching. In his report, he wrote that the claimant could

return to work in a limited duty capacity and restricted her from bending, stooping, floor level lifting, or lifting over 15 pounds.

¶ 7 On November 17, 2008, the claimant reported to Dr. Johnston that her low back pain had improved significantly. At that time, she was taking prednisone and reported that her symptoms were improving. Dr. Johnston recommended that she continue with stretching exercises and finish her course of prednisone.

¶ 8 On November 26, 2008, the claimant reported to Dr. Johnston that she continued "to have primarily right-sided lumbosacral pain" which had improved with physical therapy but had not resolved. He recommended continuing with physical therapy two to three times per week, home stretching, and Tylenol for pain. He limited the claimant to light duty work. In addition, he sent her for an MRI of her low back.

¶ 9 The MRI took place on December 11, 2009, and the radiologist's findings as a result of the MRI were as follows: "There are advanced degenerative changes at the L5-S1 interspace level, with approximately 0.5 cm left-sided posterolateral protrusion of the residual disk material at this level. There is resultant encroachment upon and borderline narrowing of the left L5-S1 intervertebral foramen." The radiologist's impression was "[a]dvanced degenerative osteoarthritis at L5-S1." The radiologist wrote: "Left-sided posterolateral disk protrusion is noted, encroaching upon the left L5-S1 intervertebral foramen."

¶ 10 The claimant saw Dr. Johnston on December 17 and 18, 2008, and his diagnosis was "[e]xacerbation of chronic low back pain syndrome status post right sacroiliac strain with

persistent right-sided sciatica." Dr. Johnston recommended that the claimant resume physical therapy for two weeks and that she continue using Tylenol. The claimant saw Dr. Johnston again on December 30, 2008. The claimant reported no change in her pain symptoms. Dr. Johnston prescribed prednisone "on a tapering dose because of the tenderness in the claimant's sacroiliac area." Dr. Johnston's work restrictions included alternating sitting and standing, no climbing, or stooping, no floor-level lifting, and no lifting over 20 pounds.

¶ 11 On a referral from Dr. Johnston, the claimant was examined by a spine surgeon, Dr. Mazur, on January 15, 2009. Dr. Mazur wrote in his report to Dr. Johnston that the claimant "walks well without signs of discomfort," and had a "full range of motion of her low back but she reported right sided low back pain." Dr. Mazur reviewed the claimant's MRI and agreed with the radiologist's report, except he added that he was "suspicious that she has a cyst on the right side just anterior to the sacrum around the S2 level seen on the sagittal views but the axial views didn't go low enough." Dr. Mazur concluded that he found "nothing in her spine which correlates with her symptoms and her physical examination suggests a non-organic component." He added that he released her to return to work without restrictions.

¶ 12 On January 16, 2009, the claimant went to Marque Medicos and was examined by Dr. Daniel Johnson. The claimant reported to Dr. Johnson that, since her accident, she had pain in her low back with pain referral into the lower leg. Dr. Johnson had x-rays taken of the claimant's low back. The radiologist's impressions of the claimant's x-rays were degenerative disc disease within her lumbar spine. In addition, in his imaging report, the radiologist also noted "a left lumbar curve with an anterior translation in lumbar weight bearing." Dr.

Johnson recommended chiropractic treatments and physical therapy for the claimant three times per week, and he took her completely off work. Dr. Johnson also referred the claimant for neurologic testing.

¶ 13 On January 20, 2009, the claimant returned to see Dr. Johnston at Dreyer Medical Clinic and complained that she had "not noticed any significant difference in her low back pain syndrome." Dr. Johnston wrote in his report that the "only thing of significance on her MRI is some degenerative changes and a minor disk herniation with left-sided protrusion, not correlating with any of her symptomatology." He also wrote: "The opinion of the consultant spine surgeon [(Dr. Mazur)] was that there was nothing surgical present and that rehab and time should resolve the problem which at this point in time it has not." Dr. Johnston had the claimant demonstrate her home exercises and noted in his report that she was not performing them in a "productive fashion."

¶ 14 Dr. Johnston advised the claimant that her pain was most likely due to incomplete mobilization of her lower back. The claimant told Dr. Johnston that she had seen another doctor at Marque Medicos who took x-rays and told her that she has serious problems with her low back. Dr. Johnston told the claimant that her situation went beyond x-rays and that she needed to decide who was going to manage her care. He told the claimant that if she stayed with Dreyer Medical Clinic, their plan for her would be to "place her back in physical therapy for 2 weeks with the focus being on full mobilization of her lower back with the understanding that in 2 weeks she will be released back to normal activity." Dr. Johnston's work restrictions for the claimant included alternating sitting and standing, no climbing, or

stooping, no floor-level lifting, and no lifting over 20 pounds.

¶ 15 After January 20, 2009, the claimant did not return to the Dreyer Medical Clinic, but instead elected to receive treatments at Marque Medicos.

¶ 16 The neurologic testing ordered by Dr. Johnson at Marque Medicos was conducted on January 23, 2009. The examiner wrote in his report that the testing did not reveal any "evidence of acute denervation of the right lumbosacral nerve roots at this time" and that there was "no evidence of a peripheral entrapment or polyneuropathy."

¶ 17 On a referral from Dr. Johnson, the claimant was examined by Dr. Spirtovic on January 29, 2009. After his examination, Dr. Spirtovic recommended an injection in the claimant's low back. On February 4, 2009, the claimant's physical therapist at Marque Medicos wrote that the claimant reported "considerable low back and sacral area pain, which is worse with bending and sitting." On February 16, 2009, Dr. Spirtovic administered the first of several injections into the claimant's low back. The claimant testified that after the injection, her pain went away for a while but later returned.

¶ 18 On February 18, 2009, the claimant submitted to an independent medical examination (IME) by Dr. Suchy. In his IME report, Dr. Suchy wrote that the claimant reported some slight improvement over the previous three months but that she continued to experience "pain and discomfort in the right lower lumbar area, with radiation down her right buttock and leg." She also reported "intermittent paresthesias to the toes."

¶ 19 Dr. Suchy's diagnosis was "[l]umbar myositis, with no objective findings in regards to any significant radiculopathy." He believed that the claimant's lumbar myositis was

caused by the workplace accident and that her treatments up to that time had been appropriate and reasonable. However, based on the "paucity of objective findings" and on Dr. Mazur's January 15, 2009, report, he believed that the claimant's myositis had resolved. He wrote: "I find no objective findings in regards to any significant radiculopathy or continuing pathology." He believed that the claimant was at maximum medical improvement (MMI) as of January 15, 2009, that she could return "back to regular duty" without restrictions, and that no further therapy or formal treatment was indicated, other than a home exercise program. He further opined as follows:

"I find no objective findings on today's examination in regard to any significant neurological deficits on the lower extremity. It should be noted, her subjective complaints are on the opposite side of the noted MRI, which shows perhaps a small herniated disc in the L4-5 level on the left. She has no left-sided symptomatology whatsoever, and there are no objective findings in regards to any significant nerve root irritation."

¶ 20 On April 13, 2009, the claimant had a second round of injections prescribed by Dr. Spirtovic. The claimant testified that the second injection provided her with pain relief for approximately one week. Ten days later, on April 23, 2009, her physical therapist wrote that the claimant "continues to note 7/10 mostly right-sided low back pain radiating to the right lower extremity."

¶ 21 On May 27, 2009, the claimant received a third injection that again provided the claimant with approximately one week of pain relief. On July 9, 2009, the claimant's



physical therapist wrote that there had been a "slight improvement in terms of functionality and pain complaint."

¶ 22 The claimant's June 30, 2009, progress report from Marque Medicos stated that the claimant had persistent "pain related to the facet joints at L4-5, L5-S1, persistent sacroiliac joint dysfunction on the right side, improvement of the disk generated pain from injections." The physician's assistant wrote in the report that the claimant would be "treated for the facet joints and the sacroiliac joints for pain that is persistent."

¶ 23 On August 13, 2009, the claimant's physical therapist noted that she complained "of low back pain at rest 5/10 and aggravated by movement, i.e., bending, twisting, transitioning position, and prolonged posturing to 7/10." The therapist reported that the claimant's "[f]unctional activity is still limited to household chores and sleeping secondary to a brief pain." The claimant was "[s]lowly improving in physical therapy with limited functional activities, moderate pain complaints and [was] limited functionally at home."

¶ 24 On September 17, 2009, Dr. Spirtovic sent the claimant to Elite Physical Therapy for a functional capacity evaluation (FCE). The report from the FCE states that the claimant demonstrated the physical capabilities to function at the sedentary category of work. The report states that the claimant "demonstrated substantial difficulty performing certain activities related to her essential job demands, most notably her inability [to] tolerate constant standing or occasional lifting up to 80 [pounds.]" The evaluator concluded that the claimant could not return to her previous full duty work activities. Dr. Spirtovic's September 24, 2009, progress report stated that the claimant should return to work on a trial basis with the

following restrictions: no lifting above 10 pounds, no continuous steering, standing, or bending.

¶ 25 On November 21, 2009, the claimant underwent another MRI of her low back. The new MRI was consistent with the previous MRI showing "a broad based posterior bulging disc and disc protrusion at L5-S1 with osteophyte complex slightly more prominent on the left." The claimant also had "protruding material of the disc at this level contacting the descending left S1 nerve root." Dr. Engel at Marque Medicos ordered an up-to-date EMG to try to ascertain whether or not she had "some persistent denervation related to her right leg pain, tingling, numbness, weakness, and burning." The testing took place on December 4, 2009, and the examiner wrote in his report that the tests resulted in "no evidence of acute denervation of the lumbosacral nerve roots at this time" and that there was no change from the previous nerve study.

¶ 26 On December 17, 2009, Dr. Engel wrote in his progress report as follows: "Her EMG is normal, and her repeat MRI demonstrates an L5-S1 herniation that is broad-based, but slightly more prominent on the left." Dr. Engel felt that the claimant needed a "two-level discography to help define her disc disease, as she describes a clear lumbar radiculitis that has not improved with previous injections and has MRI results that could be consistent with right-sided radiculopathy because she has a broad-based disc herniation at L5-S1."

¶ 27 On December 21, 2009, Dr. Engel conducted an L4-5 and L5-S1 discogram. Dr. Engel reported that the claimant "had 9/10 non-concordant pain" at L4 and L5. At L5-S1, the claimant "had 9/10 non-concordant pain as the pain radiated down her left leg." In a later

report, Dr. Engel wrote that the claimant has a "Dallas grade V tear at L5 and S1, but during the provocative portion of the discography there the pain was non-concordant and therefore not the cause of her pain." Thereafter, Dr. Engel prescribed and administered an L4, L5, and S1 medial branch block for diagnostic purposes and to help define the source of her axial back pain.

¶ 28 On January 28, 2010, the claimant returned to Marque Medicos and spoke with a physician's assistant to discuss the results of the diagnostic medial branch block performed on the right at L4, L5 and S1. The claimant told the physician's assistant that she had complete resolution of her pain the entire day of the block, but by mid-day of the day after the block, the pain started to return. The physician's assistant wrote in her report that it appeared that a second medial branch block was appropriate as a confirmatory block. If the confirmatory block results were positive, they would proceed with a lumbar rhizotomy of the appropriately blocked nerves.

¶ 29 On February 8, 2010, the claimant underwent the second medial branch blocks administered by Dr. Engel. Dr. Engel's operative report indicates that approximately 20 minutes after the procedure, the claimant had no pain relief of her right sided pain. Therefore, Dr. Engel concluded that the facet joint was not the root cause of the claimant's pain.

¶ 30 On February 18, 2010, Dr. Engel wrote in his progress report that it appeared that the claimant was not suffering from lumbar facet syndrome because her confirmatory medial branch block was negative. Dr. Engel wrote that the claimant had "a grade V tear at L5-S1

with grade 0 tear at L4-5" and that the grade V tear "could be considered the root cause for pain after lumbar facet arthropathy has been ruled out, even though her discograph was discordant." He believed that the "root cause of her pain is the L5-S1 grade V tear as no other cause has been identified." He concluded in his report, the claimant was a likely candidate for spine surgery.

¶ 31 On April 8, 2010, the claimant's physical therapist wrote that the claimant was reporting "a pain score of 5/10 on the visual analog scale." The therapist noted that the claimant had been referred to a spine surgeon to discuss the possibility of a surgical repair of her lumbar spine injuries. The therapist wrote: "She will be discontinued from supervised physical therapy, but has been instructed to continue her home exercise program as previously instructed by her physical therapist on a daily basis." The claimant was to follow up in one month after she had the opportunity to speak with a spine surgeon.

¶ 32 On May 26, 2010, the claimant was examined by spine surgeon, Dr. Gary Gireesan. His diagnosis was discogenic low back pain at L5/S1 aggravated as a result of the work injury with persistent back pain. Dr. Gireesan's May 26, 2010, medical report incorrectly states that Dr. Engel's discography resulted in "concordant pain with injection of the L5-S1 level." As noted above, Dr. Engel reported non-concordant pain as a result of the discography.

¶ 33 Dr. Gireesan recommended a lumbar fusion surgery, a single level fusion at L5S1 with cage and instrumentation. At the time of the arbitration hearing, the claimant had not undergone the surgery but testified that she wanted to have the surgery in the hope that it

would result in her getting better. The claimant also testified that since the work-related accident, she had not suffered any further accidents or injuries involving her low back. She testified that she had improved some since the accident but that her pain continued.

¶ 34 On July 29, 2010, the arbitrator entered a decision finding that the claimant's current condition of ill-being was not causally related to the workplace slip-and-fall accident. The arbitrator outlined the history of the claimant's treatments, including the opinions of Dr. Mazur, Dr. Johnston, and Dr. Suchy. The arbitrator noted that Dr. Suchy opined that the claimant's soft tissue injury as a result of the work accident had resolved. The arbitrator also noted that one of the first tests that the treating physicians at Marque Medicos ordered was an EMG/NCV that showed no right leg radiculopathy. The arbitrator found that this test result suggested that "the complaints documented after her injury had indeed resolved." The arbitrator wrote that she "could find no document in the claimant's medical records explaining how the pathology seen on the MRI related to her work injury." The arbitrator wrote: "Dr. Gireesan, a highly reputable doctor, did not provide that explanation. Furthermore, in his report he referred to findings of concordant pain at L5/S1 on the discogram, when the doctor who did the test reported the findings were non-concordant."

¶ 35 The arbitrator also found that the claimant was not entitled to any TTD. The arbitrator found Dr. Johnston's testimony that the claimant could work light duty as of January 20, 2009, was more credible than Dr. Johnson's opinions. The arbitrator denied the claimant's request for medical expense benefits, finding that "[n]one of the treatment covered by the claimed bills was causally connected to her accident." Finally, the arbitrator denied the

claimant's request for the fusion surgery, finding that claimant failed to prove that the surgery was causally connected to the accident. The arbitrator found that Dr. Gireesan's causal connection opinion was not supported by the record.

¶ 36 The claimant appealed the arbitrator's decision to the Commission. The Commission unanimously affirmed and adopted the arbitrator's decision. The claimant appealed the Commission's decision to the circuit court, and the circuit court entered a judgment confirming the Commission's decision. The claimant now appeals the circuit court's judgment that confirmed the Commission's decision.

¶ 37

#### ANALYSIS

¶ 38 Initially, we note that the claimant has failed to comply with Illinois Supreme Court Rule 341(h)(7) which requires citation to authority in the argument section of an appellant's brief. The only authority cited in the claimant's entire brief are cases setting out the standard of review. The claimant does not cite any cases in support of her arguments on appeal. This is wholly insufficient and can result in the forfeiture of the claimant's arguments. *McDuffee v. Industrial Comm'n*, 222 Ill. App. 3d 105, 111, 583 N.E.2d 598, 602 (1991) (claim waived by failing to support with legal authority).

¶ 39 "Supreme Court Rules have the force of law. They are not suggestions, nor are they aspirational." *Keefe v. Freedom Graphic Systems, Inc.*, 348 Ill. App. 3d 591, 593, 810 N.E.2d 189, 191 (2004). Briefs that do not conform to Supreme Court Rules may be stricken and new briefs ordered (*Eickmeyer v. Blietz Organization*, 284 Ill. App. 3d 134, 138, 671 N.E.2d 795, 798 (1996)), and the appeal may be dismissed for flagrant disregard of the Rules

and court orders (*Keefe*, 348 Ill. App. 3d at 593, 810 N.E.2d at 191)). Nevertheless, in the present case, the claimant's failure to comply with Rule 341(h)(7) does not prevent us from resolving the issues, and we choose to address her contentions on appeal. However, we remind counsel that they are required to follow Rule 341 and admonish counsel to comply with the supreme court rules in the future.

¶ 40 The first issue the claimant raises concerns the Commission's finding that she failed to prove that her conditions of ill-being are causally connected to the workplace accident.

¶ 41 To obtain compensation under the Act, a claimant must prove that some act or phase of her employment was a causative factor in her ensuing injuries. *Land & Lakes Co. v. Industrial Comm'n*, 359 Ill. App. 3d 582, 592, 834 N.E.2d 583, 592 (2005). "In resolving disputed issues of fact, including issues related to causation, it is the Commission's province to assess the credibility of witnesses, draw reasonable inferences from the evidence, determine what weight to give testimony, and resolve conflicts in the evidence." *Shafer v. Illinois Workers' Compensation Comm'n*, 2011 IL App (4th) 100505WC ¶ 38, 976 N.E.2d 1. We will not overturn the Commission's finding on the issue of causation unless it is against the manifest weight of the evidence. *Id.*

¶ 42 "For a finding of fact to be against the manifest weight of the evidence, an opposite conclusion must be clearly apparent from the record on appeal." *City of Springfield v. Illinois Workers' Compensation Comm'n*, 388 Ill. App. 3d 297, 315, 901 N.E.2d 1066, 1081 (2009). The appropriate test is not whether this court might have reached the same conclusion, but whether the record contains sufficient evidence to support the Commission's determination.

*R & D Thiel v. Illinois Workers' Compensation Comm'n*, 398 Ill. App. 3d 858, 866, 923 N.E.2d 870, 877 (2010). "In resolving questions of fact, it is within the province of the Commission to assess the credibility of witnesses, resolve conflicts in the evidence, assign weight to be accorded the evidence, and draw reasonable inferences from the evidence." *Hosteny v. Illinois Workers' Compensation Comm'n*, 397 Ill. App. 3d 665, 674, 928 N.E.2d 474, 482 (2009). Resolution of conflicts in medical testimony is also within the province of the Commission. *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 206, 797 N.E.2d 665, 673 (2003).

¶ 43 In the present case, applying these standards, we cannot say that the Commission's finding on the issue of causation is against the manifest weight of the evidence.

¶ 44 The two MRIs and the x-ray of the claimant's back show evidence of degenerative disc disease and a bulging/herniated disc. The claimant's bulging/herniated disc impinges on her left side, but her complaints of pain concern primarily the right side of her low back and her right leg. The two nerve conduction studies showed no evidence of radiculopathy or nerve root impingement caused by the bulging/herniated disc at L5/S1. The various treating and examining physicians who reviewed the MRIs, the x-ray, and the different test results have reached different opinions.

¶ 45 Dr. Johnston initially diagnosed and treated the claimant for a lumbar strain. His treatment involved conservative measures that included ice, ibuprofen, Flexeril, and IcyHot. When the claimant had an allergic reaction to either an anti-inflammatory medication or a muscle relaxant, he prescribed Tylenol as the claimant's sole medication for her condition of



ill-being. On November 17, 2008, less than three weeks after the accident, the claimant reported that her condition had improved significantly. After November 17, 2008, however, the claimant continued to complain to Dr. Johnston of low back and leg pain. Dr. Johnston, therefore, referred the claimant to a spine surgeon, Dr. Mazur.

¶ 46 Dr. Mazur noted the degenerative disc disease as shown in the claimant's MRI and concluded that none of the conditions of her spine correlated with her symptoms. He released the claimant to work without any restrictions. Based on Dr. Mazur's report, Dr. Johnston advised the claimant that her back pain was most likely due to incomplete mobilization of her low back. He prescribed two weeks of additional physical therapy and anticipated releasing the claimant back to normal activity after two weeks. Thereafter, the claimant never returned to Dr. Johnston.

¶ 47 Dr. Suchy conducted an IME of the claimant in February 2009 and concluded that the claimant suffered from lumbar myositis as a result of the accident and that her work-related myositis had resolved. He believed that the claimant was at MMI as of January 15, 2009, and could go back to regular duty without restrictions. Dr. Suchy could not find any "significant neurological deficits" on the claimant's lower extremity and noted that the claimant's subjective complaints were on the opposite side of a small herniated disc that is located on the left. When the claimant began her treatments at Marque Medicos, one of the first tests they conducted was an EMG/NCV that showed no right leg radiculopathy. The examiner wrote that the testing did not reveal any "evidence of acute denervation of the right lumbosacral nerve roots" and that there was "no evidence of a peripheral entrapment or

polyneuropathy." The Commission found that this test result suggested that Dr. Suchy was correct in concluding that "the complaints documented after [the claimant's] injury had indeed resolved." In reaching its decision on the issue of causation, the Commission relied on the opinions of Dr. Johnston, Dr. Mazur, and Dr. Suchy.

¶ 48 At best, the claimant has established that the parties presented conflicting medical opinion evidence. However, it was not unreasonable for the Commission to find that the balance of evidence tipped in favor of the employer. There is nothing in the record to indicate that the Commission was required to accept Dr. Johnson's, Dr. Engel's, or Dr. Giresan's opinions over Dr. Johnston's, Dr. Mazur's, or Dr. Suchy's. Accordingly, we must affirm the Commission's findings on the issue of causation.

¶ 49 The claimant also argues that the Commission's finding that she is not entitled to medical expenses is against the manifest weight of the evidence. The Commission denied the claimant's request for medical expenses because it found that "[n]one of the treatment covered by the claimed bills was causally connected to her accident." For the reasons noted above, this finding by the Commission was not against the manifest weight of the evidence. "[A]n employee is entitled to recover only those medical expenses which are reasonable and causally related to an industrial accident." *Zarley v. Industrial Comm'n*, 84 Ill. 2d 380, 389, 418 N.E.2d 717, 721 (1981). "The question of whether medical treatment is causally related to a compensable injury is one of fact to be determined by the Commission, and its finding on the issue will not be reversed on review unless contrary to the manifest weight of the evidence." *Elmhurst Memorial Hospital v. Industrial Comm'n*, 323 Ill. App. 3d 758, 764-65,

753 N.E.2d 1132, 1138 (2001).

¶ 50 The Commission found the opinion of Dr. Johnston to be persuasive. Dr. Johnston believed that the claimant's pain was likely due to incomplete mobilization, and he felt that the claimant could go back to work after two weeks of physical therapy. Likewise, Dr. Suchy believed that the claimant sustained lumbar myositis which had resolved as of January 15, 2009. Based on the evidence presented at the arbitration hearing, we cannot find that the Commission abused its discretion in denying the claimant's claimed medical expenses.

¶ 51 Under this same reasoning, the Commission's denial of the claimant's request for the prospective lumbar fusion surgery is not against the manifest weight of the evidence. The Commission found Dr. Gireesan's causal opinion with respect to his recommended fusion surgery to be suspect because his opinion was not supported by the record. Specifically, the arbitrator noted that Dr. Gireesan's "report referred to findings of concordant pain at L5/S1 on the discogram, when the doctor who did the test [(Dr. Engel)] reported the findings were non-concordant."

¶ 52 Finally, the claimant argues that the arbitrator's finding that she was not entitled to TTD benefits is against the manifest weight of the evidence. The claimant argues that she should be entitled to TTD benefits for the period of January 16, 2009, (the day Dr. Johnson took her completely off work) through July 8, 2010, (the day of the arbitration hearing), a total of 76 and 3/7 weeks. The claimant notes that as of the date of the hearing, Dr. Gireesan had taken the claimant completely off work pending authorization for the lumbar fusion surgery.

¶ 53 A claimant is temporarily totally disabled from the time an injury incapacitates her from work until such time as she is as far recovered or restored as the permanent character of her injury will permit. *Nascote Industries v. Industrial Comm'n*, 353 Ill. App. 3d 1067, 1072, 820 N.E.2d 570, 575 (2004). "The dispositive test is whether the claimant's condition has stabilized, i.e., whether she has reached MMI." *Id.* The determination of whether an employee has reached MMI is based on factors including a release to return to work, as well as medical testimony or evidence concerning the claimant's injury, the extent of the injury, and, whether the injury has stabilized. *Id.* The time period in which a claimant is entitled to temporary total disability benefits is a question of fact to be determined by the Commission that will not be overturned unless it is against the manifest weight of the evidence. *Id.*

¶ 54 In the present case, the Commission relied on Dr. Johnston's opinion that the claimant could continue on light duty as of January 20, 2009. Specifically, the arbitrator highlighted the inconsistency between the claimant's pathology and her symptoms and found that "Dr. Johnston's opinion that [the claimant] could continue on light duty as of Jan. 20, 2009 is more credible than the opinions of Dr. Johnson at Marque Medicos." In reaching this decision, the Commission weighed conflicting medical opinions and placed greater weight on the opinions of Dr. Johnston. As noted above, we cannot find that the Commission's reliance on Dr. Johnston's opinions is contrary to the manifest weight of the evidence. Dr. Suchy also examined the claimant and opined that she had reached MMI as of January 15, 2009, and could return to work without restrictions. Based on the evidence in the record, we must

affirm the Commission's denial of TTD benefits.

¶ 55

#### CONCLUSION

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

¶ 57 Affirmed.