2024 IL App (5th) 230479WC-U
No. 5-23-0479WC
Order filed March 29, 2024

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

GILSTER-MARY LEE CORPORATION, Appellant, v. THE ILLINOIS WORKERS' COMPENSATION COMMISSION, *et al.* (Derek Luers, son of Leonard Luers, Deceased, Appellee).	))))))))))	Appeal from the Circuit Court of Randolph County. No. 22-MR-35 Honorable Jeremy R. Walker, Judge, Presiding.

JUSTICE MULLEN delivered the judgment of the court.
Presiding Justice Holdridge and Justices Hoffman, Cavanagh, and Barberis concurred in the judgment.

ORDER

¶ 1 *Held*: The Commission's finding that decedent suffered an at-work accident resulting in his death is not contrary to the manifest weight of the evidence; Commission did not err in finding that decedent's adult son was a dependent of decedent.

¶ 2 I. INTRODUCTION

¶ 3 Respondent, Gilster-Mary Lee Corporation, appeals an order of the circuit court of Randolph County confirming the decision of the Illinois Workers' Compensation Commission

(Commission) awarding certain benefits to Derek Luers, the son of decedent, Leonard Luers, pursuant to the Illinois Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq*. (West 2012)). Specifically, the Commission ordered respondent to pay Derek, as a dependent of decedent, death benefits in the amount of $485.80 per week for eight years. For the reasons that follow, we affirm.

¶ 4 II. BACKGROUND

¶ 5 The instant case arises out of the death of Leonard Luers (decedent). On August 3, 2012, he was found lying unconscious on the floor in respondent's plant near a food dehydrator. He was transported to a local emergency room and later flown to a second hospital in St. Louis, where he died. He never regained consciousness, and no one witnessed the accident.

¶ 6 An arbitration hearing commenced on June 15, 2021, at which the following evidence was adduced. Patricia Stewart first testified that decedent was her ex-husband. Derek was their only son. Derek was 34 years old at the time of the hearing.

¶ 7 On August 3, 2012, Stewart received a telephone call from decedent's supervisor informing her that decedent had been in an accident and had been transported to the emergency room at Chester Hospital. They requested that Derek come to the hospital, as he was listed as decedent's next of kin. Stewart went to the emergency room. Decedent was not able to speak, but was moaning and raising his hands. He was "completely covered in this white substance, his face, all the way down his arms and chest and clothes." The substance "had an enormous amount of smell to it." A nurse stated that it was starch. Decedent never regained the ability to communicate after the accident. He was flown to a hospital in St. Louis, where he later died on August 14, 2012. Stewart testified that she opened an estate on decedent's behalf. She was appointed administrator. She identified decedent's death certificate, which lists "cranial blunt trauma" as the cause of death.

¶ 8 Decedent made child support payments to Stewart for Derek until Derek turned 18. After that, he continued to provide financial support to Stewart and Derek. She stated that she and decedent "had a very good, easy relationship and parenting with Derek." They signed a "post educational expense agreement," without seeking approval from the court, which she explained was "basically an agreement for going forward with his post education." Respondent declined to cross-examine Stewart.

¶ 9 Derek was the next witness. He testified that he is decedent's son. His father supported him when he was a minor. After he turned 18, he attended vocational school at "ITT Tech" in Arnold, Missouri. Decedent helped him pay for his schooling. Derek was not able to finish his program because of his health issues. In 2007, he was diagnosed with ulcerative colitis. By 2012, his condition had worsened and he was diagnosed with Crohn's disease. He first sought treatment for this condition before he was 18 years of age. He has been hospitalized as a result of it. It interferes with his ability to hold a job and earn income.

¶ 10 Decedent continued to support Derek up until his death. Derek stated that decedent supported him with regard to a vehicle, daily necessities, bills, food, gas, and medical expenses. Decedent gave him $40 or $50, two or three times per week. Derek agreed that he was dependent on decedent until decedent's death. On cross-examination, Derek acknowledged that he did not have any documents, such as bank statements, to support his testimony.

¶ 11 The evidence deposition of Rose Zoellner was also submitted into evidence. She testified that she was employed by respondent in the field of "safety sanitation." She considered decedent a friend. On August 3, 2012, she received a call informing her that decedent had been found on the floor near a dehydrator. She went to investigate the accident scene. There was blood on the side of decedent's head. An ambulance arrived 5 to 10 minutes later. After the ambulance took

decedent away, Zoellner and two other employees of respondent investigated the accident. They looked for, but could not find, evidence that decedent had been on top of the dehydrator. There was a "thin coating of starch dust" on the dehydrator, which had no footprints in it. There was cornstarch on the floor where decedent had been found. She observed a little cornstarch on decedent's face. It would not have been unusual for someone working in the area where decedent had been found to have cornstarch on him or her. Zoellner observed a surveillance video tape from cameras in the plant. The first shows decedent working in the marshmallow packing room. He exits that room, and another camera shows him walking down a hall.

¶ 12 On cross-examination, Zoellner stated that she never saw decedent after the day of the accident, nor did she talk to Stewart after that day. She did attend his funeral. When she arrived at the scene of the accident, starch was "actively falling from above" from a "roller belt." She agreed that starch could be slippery. She noted starch on decedent's face that was not there in the videos taken prior to the accident.

¶ 13 Chester Razer also testified via evidence deposition. Razer testified that he is the "manager and solo operator of Razer Safety and Health Consulting Company." He had previously been employed by the United States Department of Labor's Mine Safety and Health Administration and the Occupational Safety and Health Administration (OSHA). He investigated the site where decedent's accident occurred. Razer stated that he "never did arrive at an understanding of what occurred." He reiterated, "[W]e could never conclusively determine how [decedent] ended up on the floor." There were no eyewitnesses to the accident. Razer stated that he was seeking "conclusive firsthand information." One witness told Razer that he had spoken with decedent about starch or other material "dribbling from an overhead conveyor belt" prior to the accident. When asked about the cause of the accident, Razer replied, "I could not conclusively say how

[decedent] ended up on the floor with the head injury that he had." He noted that OSHA issued no citations in connection with the accident. Razer testified that decedent's job was unique in that he was allowed to move about the plant at his discretion and address issues as he discovered them.

¶ 14 On cross-examination, Razer was asked whether he concurred with OSHA's conclusion that decedent did not fall from a height. Razer replied that he "did not know how he fell." He did not know whether starch was slippery. He found no evidence to indicate that decedent was "struck by something." Razer stated, "The floor was clean and free from any loose anything."

¶ 15 Razer completed a written report concerning the accident. It states, *inter alia*, that no one witnessed the accident. Another employee who held a similar position to decedent stated that just before the accident, he observed decedent "looking at an overhead conveyor" and "believed [decedent] was trying to correct a localized starch spillage problem." Razer further wrote, "This activity was later validated by the plant's #9 security camera." The report further indicated that "[s]tarch was dribbling from an overhead conveyor to the top of the #2 dehydrator." The report concluded that given the lack of evidence, "an exact cause of the event cannot be determined."

¶ 16 An OSHA investigation commenced on August 15, 2012. In a letter directed to Derek, OSHA stated that it could conclude only that decedent had fallen from floor level. There were no witnesses to the accident. OSHA did not issue any citations to respondent regarding this accident.

¶ 17 Donnie R. Guethle testified via evidence deposition that he was a former employee of respondent and he worked with decedent, knew him for over 20 years, and was his friend. He lived in the same apartment complex as decedent for "a couple years." He also knew Derek. Guethle stated that he would see decedent give Derek money "on a Friday or Saturday night, 20, 40 bucks" on a weekly basis. He was unsure if this was before or after Derek turned 18.

¶ 18 The evidence deposition of Lloyd Robertson was also submitted into evidence. Robertson testified that he formerly worked for respondent as a foreman. He knew decedent for about 12 years, up until the time of this death. He was also decedent's neighbor for a while and considered him a friend. Robertson testified that he also knew Derek for 10 years. He stated that he observed—sometimes weekly and sometimes monthly—decedent give Derek cash and checks. When asked whether Derek relied on decedent's support, Robertson replied, "He took care of his boy." He heard Derek "ask for gas money and such things." When asked whether Derek was in school or employed at this time, he replied, "I know when he was going to high school, that kind of thing," but "[a]nything else is just me thinking."

¶ 19 The arbitrator awarded death benefits in the amount of $485.80 per week for eight years to Derek. She found that decedent suffered an accident arising out of and in the course of his employment with respondent and that his death was causally related to the accident. After finding that decedent's accident occurred in the course of employment (which is not in dispute), the arbitrator addressed the arising-out-of element. She first noted that traversing the area near the dehydrator where claimant fell was an activity he "was reasonably be expected to perform incident to his assigned duties." As such, she found that his injury was related to a "risk distinctly associated with his employment."

¶ 20 She then found that there was a causal connection between decedent's employment and his injury. She noted that "[t]he photographs of the accident scene show cornstarch dust on the floor that can be slippery." Further, "decedent had cornstarch on him." She added that there was no indication that decedent "had any kind of health condition that would have caused him to fall." She continued, "The Arbitrator infers from both direct and circumstantial evidence that the decedent appeared to slip on cornstarch and fall to the concrete floor, causing fatal injuries."

¶ 21 The arbitrator next found that Derek was entitled to benefits as a dependent in accordance with section 7(c) of the Act (see 820 ILCS 305/7(c) (West 2012)). She observed that this section provides for a grant of benefits to a person who is "in any manner dependent upon the earnings of the employee." She then found that given Derek's medical condition and based on the testimony of Stewart and other witnesses, Derek "suffered from health conditions that prevented him from supporting himself and that he relied upon the decedent to provide for his means of living at the time of his father's death." She thus concluded that Derek was entitled to benefits under section 7(c).

¶ 22 The Commission adopted the arbitrator's decision. The circuit court of Randolph County confirmed the decision of the Commission. Respondent then instituted this appeal.

¶ 23 III. ANALYSIS

¶ 24 On appeal, respondent raises two main issues. First, respondent asserts that the Commission's decision that decedent's injury arose out of his employment is contrary to the manifest weight of the evidence. Second, respondent argues that the Commission erred in finding that Derek was a dependent. We disagree with both contentions and affirm.

¶ 25 A. Decedent's Injury

¶ 26 Respondent first contends that the Commission's decision that decedent's injury arose out of his employment is against the manifest weight of the evidence. Whether an injury arose out of employment is a question of fact, which we review using the manifest-weight standard. *Steak 'n Shake v. Illinois Workers' Compensation Comm'n*, 2016 IL App (3d) 150500WC, ¶ 33. Therefore, we will not reverse a finding on this issue unless an opposite conclusion to the Commission's is clearly apparent. *Id.* It is primarily the Commission's role to decide questions of fact, assess witnesses' credibility, assign weight to evidence, and resolve conflicts in the record. *Shafer v.*

Illinois Workers' Compensation Comm'n, 2011 IL App (4th) 100505WC, ¶ 35. We owe great deference to the Commission's resolution of questions of fact. *Dodaro v. Illinois Workers' Compensation Comm'n*, 403 Ill. App. 3d 538, 544 (2010).

¶ 27 Generally, a claimant bears the burden of proving, by a preponderance of the evidence, both that his or her injury arose out of and occurred in the course of employment. *First Cash Financial Services v. Industrial Comm'n*, 367 Ill. App. 3d 102, 105 (2006). A claimant may carry this burden by setting forth sufficient circumstantial evidence. *University of Illinois v. Industrial Comm'n*, 365 Ill. App. 3d 906, 913 (2006). Pertinent here, the arising-out-of element "pertains to the origin or cause of a claimant's injury." *First Cash Financial Services*, 367 Ill. App. 3d at 105. Of course, employment need only be *a* cause of an injury, and not the only or primary cause, for a claimant to recover. *St. Elizabeth's Hospital v. Illinois Workers' Compensation Comm'n*, 371 Ill. App. 3d 882, 888 (2007). A claimant satisfies this element by showing "that the injury had its origin in some risk connected with, or incidental to, the employment so as to create a causal connection between the employment and the accidental injury." *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 203 (2003). "A risk is incidental to the employment when it belongs to or is connected with what the employee has to do in fulfilling his or her job duties." *McAllister v. Illinois Workers' Compensation Comm'n*, 2020 IL 124848, ¶ 36. Determining whether an injury arose out of employment requires a court to "categorize the risks to which the claimant was exposed." *Id*.

¶ 28 Risks fall into three categories. *Id*. ¶ 38. Those risks are as follows: "(1) risks distinctly associated with the employment; (2) risks personal to the employee; and (3) neutral risks which have no particular employment or personal characteristics." *Illinois Institute of Technology Research Institute v. Industrial Comm'n*, 314 Ill. App. 3d 149, 162 (2000). Injuries caused by

personal risks are not usually compensable while employment risks "are universally compensated." *Id*. at 162-63. Neutral risks are not compensable unless "the employee was exposed to the risk to a greater degree than the general public." *Springfield Urban League v. Illinois Workers' Compensation Comm'n*, 2013 IL App (4th) 120219WC, ¶ 27.

¶ 29 In this case, the Commission, adopting the decision of the arbitrator, found that the risk that resulted in decedent's death was an employment risk. A risk is associated with employment where "the employee was performing (1) acts he or she was instructed to perform by the employer, (2) acts that he or she had a common-law or statutory duty to perform, or (3) acts that the employee might reasonably be expected to perform incident to his or her assigned duties." *McAllister*, 2020 IL 124848, ¶ 46. The record contains adequate support for the Commission's finding that "walking in the area of the dehydrator was an act the decedent was reasonably expected to perform incident to his assigned duties." We first note Razer's testimony that decedent's position allowed him to roam about the plant and address problems as he encountered them. Zoellner testified that when she arrived at the accident scene, starch was "actively falling from above" from a "roller belt." Razer's report states that "[s]tarch was dribbling from an overhead conveyor to the top of the #2 dehydrator." Also, the arbitrator noted that "photographs of the accident scene showed cornstarch dust on the floor that can be slippery." Thus, the record indicates that there was a problem with the starch conveyor in the area of the accident. Moreover, it is inferable that decedent was in the area to address this problem, as Razer testified that he spoke with another employee, Reynolds, who had spoken with decedent shortly before the accident. Reynolds related that decedent told him that decedent had seen "some starch or some sugar, some material dribbling from an overhead conveyor belt." This conversation is also documented in Razer's report, which states that it was "validated by the plant's #9 security camera."

¶ 30 Given the nature of decedent's job, the existence of a problem in the area of the accident, and evidence of decedent's intent to address the issue, the Commission could reasonably infer that decedent was in the area of the dehydrator in furtherance of his job duties. Respondent points to no evidence to the contrary. As such, the Commission's finding that decedent's injury was caused by a risk that was incidental to employment is not contrary to the manifest weight of the evidence. Since injuries resulting from employment-related risks arise out of employment, the Commission correctly determined that decedent's accident was compensable. *McAllister*, 2020 IL 124848, ¶ 40.

¶ 31 Respondent, nevertheless, contends that decedent's injuries arose out of a neutral risk. Assuming, *arguendo*, that the risk encountered by decedent was neutral, his injury would remain compensable regardless. Neutral risks arise out of employment only if "the employee was exposed to the risk to a greater degree than the general public." *Springfield Urban League*, 2013 IL App (4th) 120219WC, ¶ 27. "Such an increased risk may be either qualitative, such as some aspect of the employment which contributes to the risk, or quantitative, such as when the employee is exposed to a common risk more frequently than the general public." *Metropolitan Water Reclamation District of Greater Chicago v. Illinois Workers' Compensation Comm'n*, 407 Ill. App. 3d 1010, 1014 (2011). Here, it was inferable that claimant slipped on starch that was spilling from an overhead conveyor. Zoellner testified that she observed starch falling from above, and this was also documented in Razer's report. Stewart testified that decedent was "completely covered in this white substance, his face, all the way down his arms and chest and clothes." A nurse told her it was starch. Zoellner testified that starch could be slippery. Thus, the Commission could infer that slippery starch on the floor contributed to the risk that led to decedent's death. Thus, even if the risk decedent encountered was neutral, his injury would remain compensable.

¶ 32 Respondent cites *First Cash Financial Services*, 367 Ill. App. 3d at 105, in support of its position. In that case, the claimant slipped and fell in a bathroom. The arbitrator observed that no evidence was presented " 'that the bathroom tiles were dry or free of hair, dust, debris, make-up, tissue, oil, water droplets or of the many other possible substances.' " *Id.* at 106. The court found that the arbitrator had "improperly shifted the burden" to the respondent. *Id.* Further, the only evidence presented that the floor where the claimant slipped was dirty was three-month-old photographs and general testimony by three of the claimant's coworkers, one of whom stated that she did not observe anything on the floor on the day of the accident. *Id.* at 107. The reviewing court concluded, "Because the claimant did not present any evidence establishing the cause of her fall, she has failed to prove that her injury arose out of her employment." *Id*.

¶ 33 *First Cash Financial Services* is easily distinguishable. As noted, in that case, the claimant did not present any evidence regarding the cause of her fall. In this case, evidence existed in the form of Zoellner's testimony and Razer's report, that the floor where decedent fell had been made slippery by cornstarch dust. Thus, *First Cash Financial Services* is of little guidance here.

¶ 34 We find it of no moment that Razer opined that he could not ascertain the cause of decedent's accident. We note that Razer stated that he was seeking "*conclusive* firsthand information" (emphasis added) regarding the accident. He opined, "I could not *conclusively* say how [decedent] ended up on the floor with the head injury that he had." (Emphasis added.) A claimant need only prove his or her case by a preponderance of the evidence. *First Cash Financial Services*, 367 Ill. App. 3d at 105. Thus, it appears that Razer was applying a standard far higher than is required in these cases, and his opinion was therefore of limited value.

¶ 35 In short, the decision of the Commission finding that decedent suffered an injury arising out of his employment with respondent is not contrary to the manifest weight of the evidence.

¶ 36 B. Whether Derek Was A Dependent

¶ 37 Respondent next argues that the Commission's decision that Derek was a dependent of decedent is against the manifest weight of the evidence. Section 7(c) of the Act provides, in pertinent part:

> "If no compensation is payable under paragraphs (a) or (b) of this Section and the employee leaves surviving any child or children who are not entitled to compensation under the foregoing paragraph (a) but who at the time of the accident were nevertheless in any manner dependent upon the earnings of the employee, or leaves surviving a parent or parents who at the time of the accident were partially dependent upon the earnings of the employee, then there shall be paid to such dependent or dependents for a period of 8 years weekly compensation payments at such proportion of the applicable rate if the employee had left surviving a widow or widower as such dependency bears to total dependency." 820 ILCS 305/7(c) (West 2012).

Whether an individual is dependent upon an employee presents a question of fact subject to review using the manifest-weight standard. *Pittwood Grain Co. v. Industrial Comm'n*, 312 Ill. App. 3d 889, 891 (2000). We will not disturb the Commission's decision on this issue unless an opposite conclusion is clearly apparent. *Steak 'n Shake*, 2016 IL App (3d) 150500WC, ¶ 33. Parenthetically, we reject respondent's assertion that this issue raises a question of law, as, after making it, respondent then focuses their argument upon the facts of the case, ultimately concluding that Derek "failed to produce any tangible evidence that he was dependent on the earnings of the Deceased after 2005."

¶ 38 Generally, "dependency" " 'implies a present existing relation between two persons where one is sustained by the other or looks to or relies on the aid of the other for support or for reasonable

necessaries consistent with the dependent's position in life. [Citation.]' " *Divittorio v. Industrial Comm'n*, 299 Ill. App. 3d 662, 666 (1998) (quoting *In re Estate of Hardaway*, 26 Ill. App. 2d 493, 496 (1960)). The Act, "especially in determining questions of dependency, should receive a common-sense and liberal construction." *Obear-Nester Glass Co. v. Industrial Comm'n*, 398 Ill. 342, 346 (1947). Section 7(c) requires only that an individual be "in any manner dependent upon the earnings of the employee." 820 ILCS 305/7(c) (West 2012). Section 7(b), conversely, requires total dependency (*id.* § 7(b)), and section 7(d) applies where a grandparent is 50% dependent upon the employee (*id.* § 7(d)). Of course, the plain language of the statute is the best indicator of its meaning. *Williams v. Board of Review*, 395 Ill. App. 3d 337, 340 (2009). Here, the plain language of section 7(c)—particularly read in light of other sections that expressly require a higher level of dependency—indicates that it applies if an individual is at least partially dependent upon the deceased employee. *Cf. Pittwood Grain Co.*, 312 Ill. App. 3d at 891 ("It is not necessary to show that the claimants would have been without the necessities of life or that they were without other means of support."); *Marshall v. Industrial Comm'n*, 342 Ill. 400, 403-04 (1930) (construing an earlier version of section 7(c), the supreme court observed, "To establish dependency, it is not necessary to show that the claimant was without other means of support.").

¶ 39 The Commission's (adopting the decision of the arbitrator) discussion of the facts relevant to this issue is brief: "Based on [Derek's] medical records and the testimony of [Derek], his mother, and other witnesses, the Arbitrator finds that [Derek] suffered from health conditions that prevented him from supporting himself and that he relied upon the decedent to provide for his means of living at the time of [decedent's] death." Our review of the record reveals ample evidence to support this finding.

¶ 40 Most significantly, Derek testified that he was diagnosed with ulcerative colitis in 2007 and Crohn's disease in 2012 (the year of decedent's death). His condition has resulted in hospitalizations. As a result of his condition, his ability to hold a job and earn income is impaired. Decedent supported Derek up until the time of his death. Derek testified that decedent supported him with regard to a vehicle, daily necessities, bills, food, gas, and medical expenses. As noted above, the Commission credited Derek's testimony. In addition, Stewart testified after making child support payments until Derek turned 18, decedent continued to provide financial support to Derek. At one point, she and decedent signed a "post educational expense agreement," which was "basically an agreement for going forward with his post education."

¶ 41 Respondent cites no evidence to the contrary. Rather, respondent first contends that decedent was under no legal obligation to support Derek. Respondent cites nothing to support the proposition that a legal obligation is a necessary component of dependency (thus forfeiting the issue (*Vallis Wyngroff Business Forms, Inc. v. Illinois Workers' Compensation Comm'n*, 402 Ill. App. 3d 91, 94 (2010))), and nothing in the plain language of section 7(c) suggests such a requirement. Moreover, we note the definition of "child" in section 7(a) includes "a posthumous child, a child legally adopted, a child whom the deceased employee was legally obligated to support or a child to whom the deceased employee stood in loco parentis." 820 ILCS 305/7(a) (West 2012). Thus, a child a decedent is "legally obligated to support" is but one class of children that can claim benefits under the Act. Hence, such an obligation is not an essential component of a claim under section 7.

¶ 42 Respondent next argues that while Derek testified that his medical condition "interferes" with his ability to earn a living, "[h]e did not testify that he could not work or obtain employment." Again, respondent cites no legal authority in support of the proposition that a dependent must be

unemployable, forfeiting it (*Vallis Wyngroff Business Forms, Inc.*, 402 Ill. App. 3d at 94). Further, as pointed out above, that Derek may have had other means of support would not preclude a finding of dependency. *Cf. Pittwood Grain Co.*, 312 Ill. App. 3d at 891 ("It is not necessary to show that the claimants would have been without the necessities of life or that they were without other means of support."). Indeed, the question before the Commission was whether Derek was dependent, not whether he was totally disabled.

¶ 43 Respondent further points out that Derek's testimony is unsupported by documentary evidence. However, the Commission is the trier of fact and may accept uncorroborated testimony that it finds credible. See *Old Ben Coal Co. v. Industrial Comm'n*, 198 Ill. App. 3d 485, 492 (1990) ("A claimant may recover on his own testimony without corroboration."). It is for the trier of fact to assess the weight to which testimony and documentary evidence is entitled. *Dillon v. Industrial Comm'n*, 195 Ill. App. 3d 599, 607 (1990). Lack of corroboration is a matter affecting weight. *Edwards v. Paddock Publishing, Inc.*, 327 Ill. App. 3d 553, 566 (2001). Thus, we cannot say that, even if Derek's testimony was uncorroborated by documentary evidence, the Commission's decision is contrary to the manifest weight of the evidence.

¶ 44 Respondent correctly notes that Guethle was unsure of whether the occasions he observed respondent give Derek money occurred before or after Derek turned 18. As such, it provides little support for Derek's testimony that decedent was supporting him at the time of his death beyond showing a willingness of decedent to support his son. More importantly, it does not undercut Derek's testimony. Similarly, Robertson testified that he knew decedent supported Derek when Derek was "going to high school," but was unsure as to whether the support continued. Again, this does not undercut Derek's testimony that decedent continued to support him until his death,

so it provides no basis to conclude that the Commission's decision is against the manifest weight of the evidence.

¶ 45 Respondent correctly points out that the "post educational expense agreement" was signed by decedent and Stewart shortly after Derek's graduation from high school and that Derek left vocational school by 2009, three years before decedent's death. While true, this provides at least tangential support for Derek's claim in that it shows that decedent did not stop supporting Derek at his 18th birthday. In any event, it does not contradict Derek's testimony that decedent continued to support him.

¶ 46 In sum, while respondent attacks the weight to which the evidence cited by the Commission is entitled, it does not provide any evidence to the contrary. A decision is contrary to the manifest weight of the evidence only if an opposite conclusion is clearly apparent. *Shafer*, 2011 IL App (4th) 100505WC, ¶ 35. Respondent's attacks are not so compelling as to convince us that the Commission was required to reject the testimony of Derek and Stewart. As such, the Commission's decision is not contrary to the manifest weight of the evidence.

¶ 47 IV. CONCLUSION

¶ 48 In light of the foregoing, the judgment of the circuit court of Randolph County confirming the decision of the Commission is affirmed.

¶ 49 Affirmed.