2023 IL App (3d) 230174WC-U

Order filed December 21, 2023

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

STEPHEN J. WALSH,	)	Appeal from the Circuit Court
	)	of the 12th Judicial Circuit
Appellee,	)	Will County, Illinois
	)	
v.	)	Appeal No. 3-23-0174WC
	)	Circuit No. 21-MR-1523
THE ILLINOIS WORKERS'	)	
COMPENSATION COMMISSION *et al.*	)	Honorable
	)	John C. Anderson,
(Austin Tyler Construction Co., Appellant).	)	Judge, Presiding.

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

ORDER

¶ 1 *Held*: The Commission's award of temporary total disability and permanent partial disability benefits was against the manifest weight of the evidence.

¶ 2 The claimant, Stephen J. Walsh, was found to have sustained a compensable injury pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 *et. seq.* (West 2014)) while working for the employer, Austin Tyler Construction Co. An arbitrator awarded the claimant temporary total disability (TTD) and permanent partial disability (PPD) to the extent of 30% loss of use of his left foot. The Commission affirmed and adopted the arbitrator's decision, with the

exception of modifying the TTD award dates. The circuit court found the claimant was entitled to a longer period of TTD and a wage-differential award. The court reversed and remanded the matter to the Commission for the recalculation of benefits. The employer appeals.

¶ 3 I. BACKGROUND

¶ 4 At the outset, we note a limited background is provided to specifically address the issues surrounding the TTD dates and whether the claimant is entitled to a PPD or a wage-differential award. The parties do not dispute the claimant's injury arose out of and occurred in the course of his employment. The following factual recitation is taken from the evidence presented at the arbitration hearing conducted on January 11, 2019, and January 15, 2019, the arbitrator's decision dated March 7, 2019, and the Commission's decision dated May 12, 2021.

¶ 5 A. Arbitration Hearing

¶ 6 The claimant testified he began working for the employer as a truck driver around July 2013. He loaded and transported various materials, such as asphalt, dirt, and stone. The claimant's daily procedure involved checking in with his supervisor to receive his assignment, grab his keys, and start preparing the truck. The claimant's inspection process involved checking fluids, motor oil, water, lights, and tires. This process required him to climb in and out of the cab several times.

¶ 7 The claimant testified about the process to load the truck with asphalt. He would get inside the trailer of the dump truck with a small bottle and pour a slight amount of diesel fuel to lubricate the bowl-shaped interior of the trailer. The claimant explained asphalt does not stick to diesel fuel and the lubrication must be significant. To apply the lubricant, the claimant testified that he would put his left foot on the rear axle of the trailer, his right foot on the tire, and pull himself up with his hands on the ladder. He explained that he would place his left foot on the small lower foot peg and slide his body over the side of the dump trailer to spray the lubricant in the bed of the trailer. The

claimant stated there was no other way to perform this task because there is a tailgate on the right side of the truck, so he must climb on the left side. Alternatively, he stated there was an automatic sprayer to lubricate the truck, but stated it did a very poor job so he did not ordinarily use it. The claimant explained that the automatic sprayer does not spray underneath the tarp and it is on a timer, which shuts off before reaching the back end of the trailer. He stated that the lubrication step was critical, and if it failed to reach all parts of the trailer, his day would require a lot of shoveling. Once a load was released by a dump truck, the claimant testified that he would have to climb down from the truck and scrape all the remaining asphalt stuck to the pan. Cleaning out asphalt required him to grab a shovel, climb one of the ladders on the trailer, and step into the trailer (using a foot peg to get down) and manually shovel the stuck asphalt. The claimant testified he would use both feet—one to push the shovel and the other to push into the trailer to brace as he pushed on the shovel to free the material. The claimant testified that the employer had absolutely no policies prohibiting its drivers from going into the trailer.

¶ 8 On October 18, 2014, the claimant was 46 years old when he injured his ankle. He explained he went to load asphalt, checked the motor oil, and started the truck. When he exited the truck, he descended several feet and his left foot landed in a pothole. The claimant testified he continued to deliver his load of asphalt. Afterwards, he called a supervisor to report the incident and the amount of pain he was in due to the injury. The claimant went home to rest his injured foot. Later that day, he sought treatment where records noted ankle swelling but no fracture. The claimant presented to various physicians over the next few weeks, was ordered off work, and underwent physical therapy. A later MRI revealed tearing of the superior peroneal retinaculum, peroneal longus tendon, and peroneus brevis tendon. Although surgery was recommended, the claimant wanted to avoid surgery and opted to continue physical therapy.

¶ 9 In December 2014, the employer offered the claimant light-duty work, which he did for one day, and declined thereafter as he thought it was going to cost the employer a lot of money because he was doing pointless paperwork. The claimant testified he suggested to the employer that they lay him off, which they did. Notably, the claimant typically worked full-time for the employer, but the job as a driver was seasonal as he would get laid off during the winter when there was no construction work. During the winter, he continued physical therapy and found some relief. The claimant declined surgery as he wanted to continue his progress with physical therapy.

¶ 10 In March 2015, the claimant's physical therapist noted he had a normal range of motion, except for 35 degrees inversion on the left ankle as opposed to 50 degrees on the right. The claimant asked his physician to release him to work full duty but also inquired about the cost of the recommended surgery. The claimant then returned to work for the 2015 construction season. He worked the entire season but stated that he felt a terrible amount of pain when engaging in his work activities, which included climbing into the trailer, shoveling asphalt, climbing in and out of the truck, and operating the clutch. The claimant also testified his left ankle would swell up daily as his work duties caused a tremendous amount of pressure on it.

¶ 11 The claimant returned to work for the 2016 construction season and testified his ankle was getting worse every day. Dr. Armen Kelikian, an orthopedic surgeon, performed the repair surgery on May 19, 2016. The claimant was given a cast and crutches and referred for physical therapy. Medical records showed the claimant made very little improvement post-operation, and he complained of numbness, swelling, and tingling throughout his foot and ankle. He was not released to return to work for the rest of the year.

¶ 12 On June 13, 2017, the claimant underwent a functional capacity evaluation (FCE). The evaluators noted it was a reliable evaluation, as the claimant gave full effort, and they performed

a variety of tests that showed the claimant met 94.5% of the physical demands of a truck driver. The evaluation found the claimant could perform within the medium physical demand category based on definitions developed by the United States Department of Labor. The claimant provided his work required him to get in the truck trailer 2-10 times per day, it took between 5-30 minutes to clean out the bed of the trailer, and he had to get in and out of the cab up to 60 times per day. A number of activities were rated for the claimant's physical tolerance level and labeled as: frequent (simple grasping, squatting, static balance, and dynamic balance); occasional (firm grasping, bending, walking, stair climbing, ladder climbing, lifting asphalt, dragging asphalt, climbing into cab, and climbing into trailer); constant (sitting and standing); and avoid (simulating a clutch).

¶ 13 On June 23, 2017, the claimant presented to Dr. Kelikian who provided the following return to work restrictions: "He is able to return to work on medium duty but his present job is heavy duty, able to perform within parameters of FCE. He may return to work on July 3, 2017." The claimant testified he faxed these restrictions to his supervisor, William Krizmanic, and called him. The claimant received computerized text messages from the employer on September 12, 2017, and October 10, 2017, stating he was off work.

¶ 14 On November 2, 2017, the claimant returned for his first day of work and the employer provided him an automatic truck and a "dry haul" of asphalt chips that did not require him to get into the trailer to spray diesel fuel or remove debris after unloading. The claimant noted his left foot pain was worse after working and took photos showing his swollen ankle after a few hours of work. His job duties still required him to get in and out of the truck cab several times. After work, he presented to Dr. Kelikian who modified his work restrictions to: "Light duty only[,] no climbing or heavy lifting 11/3/2017 and 11/4/2017[.] Needs further work status from orthopedic specialist."

¶ 15 On November 6, 2017, Dr. Kelikian modified the claimant's work restrictions to medium

level activity, no climbing truck or trailer, no clutch driving, and no shoveling over 100 pounds. The restriction did not provide an end date. The claimant did not return to work.

¶ 16 The claimant entered into evidence his own surveillance video taken on April 30, 2018. He testified that the video showed one of the employer's drivers shoveling out the back of a trailer.

¶ 17 Krizmanic, the employer's superintendent, testified about the claimant's employment and the employer's policies. Regarding notice of the claimant's work restrictions provided in June 2017, he believed that the claimant texted them to him. However, he seemed confused as to whether he was remembering the June 2017 restrictions or the November 2017 restrictions.

¶ 18 Krizmanic also testified as to the employer's written job description for a "Teamster Semi Driver." The description outlined specific tasks that may be performed: drive truck to destination, pull levers or turn crank to tilt body and dump contents, perform pre-trip inspection, inspect material and review shipping documents, maintain clean driving record, have a valid license to drive a commercial motor vehicle, have a current medical card, and have knowledge and understanding of the Department of Transportation's rules and regulations. The description provided physical demands for the position: sit and use hands to handle or feel, reach with hands and arms, regularly lift and/or move up to 10 pounds, and specific vision abilities.

¶ 19 Krizmanic could not answer when this job description was in effect or whether it was in effect from 2014 through 2017. However, Krizmanic testified the truck drivers were not required to climb back into the trailer to clean out the truck, and if there was any debris, the driver would inform his supervisor who would notify a laborer to clean out the truck. He stated this rule was posted on the key box where the drivers grab their keys every morning. However, he could not recall who prepared the rule, when it was prepared, who posted it, or when it was posted.

¶ 20 Gary Schumal, the employer's president, also testified. He stated that the job description

entered into evidence was the job the claimant previously performed and was the same job he would perform if he were to return to the company. When Schumal was asked whether he or anyone working for the employer drafted the job description as a result of the claimant's lawsuit, he stated he could not recall. He went on to state "[c]urrently climbing in the back of the trailer is not allowed for safety regulations" and "[c]urrent company policy is no driver gets in the bed of his truck." Schumal testified he had experiences with drivers in the past that caused him to implement the policy. However, he could not recall whether this policy was in place in 2017.

¶ 21 Schumal testified the claimant was not returned to work until November 2017 because he was not notified the claimant was available to return to work, and as a result, the computer sent out text messages to the claimant providing he was off work. He testified he first became aware of the claimant's availability when the claimant attempted to return to work on November 2, 2017.

¶ 22 Don Kinsella, a close friend of the claimant's and a previous contractor for the employer, testified as to his experience and observations. He testified he completed several jobs for the employer between 2007 and 2011 and observed the employer's drivers get out of their trucks and inspect what they were dumping. Kinsella testified, after a load was delivered, drivers were responsible for cleaning the truck and observed drivers cleaning the back of trailers. However, he stated he neither supervised any job site where the employer has been since 2011 nor supervised the claimant while working for the employer.

¶ 23 Ronald Chester, a current truck driver for the employer, testified as to his five years of experience with the employer. He stated the employer had policies prohibiting the driver from climbing into trailers, which was industry standard, and signs posted at job sites stated the drivers were not to get out of their trucks on their premises as a safety precaution. Chester testified that his daily truck inspection does not require him to climb the ladder to see what was inside the trailer

because the driver can lift his box straight up and look inside. He said after dumping a load of asphalt, most of it would come out, and therefore, cleaning after each load was not required. In the event there was sediment remaining, Chester would inform his foreman to arrange to have it scraped out by someone else. He testified he would exit the cab of his truck 1-10 times per day.

¶ 24 Dr. Kelikian testified he is board certified in orthopedics and specializes in feet and ankles. He opined the claimant's ankle condition was permanent but surgically repaired. Dr. Kelikian stated, after a successful surgery, ankle swelling should subside to normal. After reviewing the claimant's FCE in June 2017, he opined the claimant could return to medium level work. Dr. Kelekian said he had no reason to disagree with the FCE. However, in November 2017, he added a restriction of no climbing after the claimant worked one day, and his notes reflected he examined the claimant and the claimant rated his pain three out of four. When presented with the employer's job description for its "Teamster Semi Driver." Dr. Kelikian opined that the claimant could handle the duties, noting the job description omitted anything about using a clutch and provided that drivers were only required to lift up to ten pounds.

¶ 25 Kari Stafseth, a certified vocational rehabilitation counselor, testified about her interview with the claimant. The claimant stated his work amounted to 50% driving and 50% laboring and he had difficulty climbing stairs and worse difficulty descending. She consulted the Dictionary of Occupational Titles and determined that a driver is considered to be at a "medium" demand level while work done as a laborer is under the "very heavy" demand level. Stafseth noted the claimant was approaching 50 years old, which impacted his ability to adjust to other types of employment. She opined he did not have any transferable skills beyond driving as he had no formal education beyond high school and the only job he had other than driving was working at a grocery store when he graduated from high school. Stafseth opined that the claimant had access to some driving

positions and other positions such as packing, assembly work, shipping and receiving, and parts delivery driver, however, she opined that the claimant lost access to his usual and customary job. Stafseth opined that the claimant's earning potential was between $13 and $17 per hour based on her consultation with the Department of Labor statistics, her evaluation with the claimant, and a transferable skills analysis.

¶ 26 The claimant testified that he sought other employment and ultimately secured employment at Circle K for about five weeks as a cashier, which only required him to stand and check out customers. However, after a few hours of standing, his left ankle would swell, and he would be in pain. The claimant also testified that, at its very best, he has about 30-40% loss of feeling in the front part of his foot. The claimant then found employment at Speedway gas station where he worked at the time of the hearing and earned $9 per hour. He experiences swelling every day and has not gone a day without swelling since the accident. The arbitrator observed the claimant's left ankle and noted on record that it appeared to be more swollen than his right ankle.

¶ 27 The arbitrator found a causal connection between the claimant's left ankle condition and his work accident. The arbitrator noted this finding was limited by the claimant's release back to work by Dr. Kelikian, who provided a restriction of no clutching, which fell within the claimant's job duties and could be accommodated by the employer. Therefore, the arbitrator awarded TTD from October 19, 2014 (the day after the accident) through December 2, 2014 (until the claimant was offered light-duty work) and May 19, 2016 (day of surgery) through June 23, 2017 (the day he saw Dr. Kelikian who said he could return to work on July 3, 2017). The arbitrator also awarded the claimant PPD to the extent of 30% loss of use of his left foot. The arbitrator noted the claimant's average weekly wage pre-accident was $1,474.

¶ 28 B. The Commission's Decision

¶ 29 The claimant filed a petition for review before the Commission. The Commission modified the arbitrator's decision as to the claimant's TTD award. It noted that Dr. Kelikian's release given on June 23, 2017, was for a return to work date of July 3, 2017. Therefore, the Commission modified the TTD award to reflect benefits through July 2, 2017, and otherwise affirmed and adopted the arbitrator's decision.

¶ 30 C. The Circuit Court's Ruling

¶ 31 The claimant sought review of the Commission's decision before the circuit court. The court found the Commission's determination to be against the manifest weight of the evidence and reversed and remanded to the Commission on the issues of TTD and PPD. As to TTD, the court found that benefits should have been paid through October 31, 2017, which was the date when employer accommodated the claimant's work restrictions. The court noted the claimant testified that, as soon as he obtained the June 23, 2017, work restrictions, he contacted Krizmanic. Then Krizmanic testified he believed the claimant texted him the restrictions but was confused if it was the June or November 2017 restrictions. The court found it implausible that the parties would have no contact following the claimant's May surgery until October or November of that year.

¶ 32 The court also addressed the Commission's nature and extent finding. The court noted the claimant's testimony, which provided he entered and exited his cab multiple times per day and would need to enter the back of the trailer to shovel asphalt stuck to areas of the trailer to prepare for the next load. The court pointed out that none of the employer's witnesses denied that a driver might perform this activity, and they only provided it was not their current policy. Further, although there was testimony about the employer's signage that drivers were not to climb into the bed of their trucks, neither Krizmanic nor Schumal could say when this policy sign was posted or whether it was posted on the claimant's last day of work. Also, neither could state whether the

policy was in effect before the sign was posted. The court found it unbelievable that the superintendent and president would not know this information. The court also made note of the video evidence from April 30, 2018, well after the claimant's last day of employment, which showed one of the employer's drivers in the bed of a trailer shoveling material from the trailer.

¶ 33 The court found the employer's provided job description to be fictitious. Both Krizmanic and Schumal testified that it accurately stated the physical requirements a driver needs to meet to do his job, but neither testified that the job description was in effect in 2014 through 2018. Further, Schumal was asked if the job description document was prepared as a result of the claimant's lawsuit against the company, to which he responded he could not recall. The court stated there was video evidence of drivers working beyond the job description and the claimant testified to the same. Therefore, the court found the job the claimant worked was far beyond his capabilities provided in Dr. Kelikian's last work restrictions of medium-level activity, no climbing truck or trailer, no clutch driving, and no shoveling over 100 pounds. The court stated "the [employer] says one thing, but their drivers do another in the course of their employment."

¶ 34 The court noted Dr. Kelikian's testimony providing that, after a successful surgery, the claimant's swelling should have subsided to normal. The arbitrator noted the swelling at trial. The FCE notes provided the claimant showed full effort and it was not a case where the claimant was fabricating his disability. The court found that the claimant's increased pain and swelling that accompanied physical activity was sufficient evidence that continuing his line of work endangered his health. The court found that the accommodation of an automatic truck was insufficient based on the evidence of what a driver's duties actually entails. Thus, the court found the claimant was entitled to a wage-differential award as the evidence demonstrated the claimant lost access to his usual and customary line of occupation based on the physical requirements of his position and his

demonstrated limitations after an FCE. The court noted the claimant performed a self-directed job search and obtained a job earning far less than his pre-morbid usual and customary line of employment. The court found the claimant had an average weekly wage of $174.75 over a 25-week period. The employer appeals.

¶ 35 II. ANALYSIS

¶ 36 The employer argues the court erred when it reversed the Commission's TTD and PPD awards and remanded for recalculation of the TTD award and calculation of a wage-differential award. We first address this court's jurisdiction. Generally, an order from the circuit court reversing the Commission and remanding the matter to the Commission is interlocutory and not appealable. *A.O. Smith Corp. v. Industrial Comm'n*, 109 Ill. 2d 52, 54 (1985). However, the Commission is not required to resolve any disputed issue of fact or law, and instead, its function on remand is ministerial in the form of a mathematical equation. Therefore, we find that the circuit court's order is final for purposes of appeal and this court has jurisdiction to entertain the appeal. See *Edmonds v. Illinois Workers' Compensation Comm'n*, 2012 IL App (5th) 110118WC, ¶ 19.

¶ 37 A. Permanency Award

¶ 38 Under section 8(d) of the Act, a claimant who suffers a permanent partial disability may receive a wage-differential award or a percentage-of-the-person-as-a-whole award. 820 ILCS 305/8(d)(1), (2) (West 2014). To prove entitlement to a wage-differential award, a claimant must show (1) he is "partially incapacitated from pursuing his usual and customary line of employment" and (2) there is a "difference between the average amount which he would be able to earn in the full performance of his duties in the occupation in which he was engaged at the time of the accident and the average amount which he is earning or is able to earn in some suitable employment or business after the accident." *Id.* § 8(d)(1). In contrast, a claimant is entitled to a PPD award based

on a percentage-of-a-whole under three circumstances: (1) when his injuries do not prevent him from pursuing the duties of his employment but he is disabled from pursuing other occupations or is otherwise physically impaired, (2) when his "injuries partially incapacitate him from pursuing the duties of his usual and customary line of employment but do not result in an impairment of earning capacity," or (3) when he suffers an "impairment of earning capacity" but he "elects to waive his right to recover under [8(d)1]." *Id.* § 8(d)(2).

¶ 39 We note our supreme court has expressed a preference for wage-differential awards and "where a claimant proves that he is entitled to a wage-differential award, the Commission is without discretion to award a section 8(d)(2) award in its stead." *Gallianetti v. Industrial Comm'n*, 315 Ill. App. 3d 721, 727-29 (2000). "The purpose of a wage-differential award is to compensate an injured claimant for his reduced earning capacity, and if the injury does not reduce his earning capacity, he is not entitled to such compensation." (Internal quotation marks omitted.) *Lenhart v. Illinois Workers' Compensation Comm'n*, 2015 IL App (3d) 130743WC, ¶ 44.

¶ 40 The resolution of whether the claimant is entitled to an award of benefits under section 8(d)(1) or 8(d)(2) requires resolution of factual matters, and therefore, the manifest weight of the evidence standard is the proper standard of review. *Village of Deerfield v. Illinois Workers' Compensation Comm'n*, 2014 IL App (2d) 131202WC, ¶ 44. A finding of fact is against the manifest weight of the evidence only if an opposite conclusion is clearly apparent. *Id.*

¶ 41 Here, the Commission found the claimant was entitled to a PPD award while the court found the claimant was entitled to a wage-differential award. The employer argues the Commission's decision should be upheld because it is afforded deference in its credibility determinations. Specifically, the Commission's findings that (1) the claimant operated a clutch during the entire 2015 construction season post-accident without reporting an issue, (2) the FCE

released the claimant back to his position with the exception of operating a clutch and he was provided an automatic truck, (3) the claimant's testimony regarding the physical labor was not credible, and (4) Dr. Kelikian's only restriction was that the claimant could not operate a clutch.

¶ 42 The employer's argument section of its brief consists of two pages explaining the deference afforded to the Commission and merely detailing the aforementioned facts and findings. The employer failed to couch its argument within the context of the appropriate permanency award and failed to provide any analogous or otherwise applicable case law to support its position. As a reviewing court, we are entitled to have the issues clearly defined, pertinent authority cited, and a cohesive legal argument presented. *Walters v. Rodriquez*, 2011 IL App (1st) 103488, ¶ 15. Illinois Supreme Court Rule 341(h)(7) (eff. Oct. 1, 2020) specifically sets forth the requirements for the appellant's brief and failure to follow the rule may result in forfeiture. *Vallis Wyngroff Business Forms, Inc. v. Illinois Workers' Compensation Comm'n*, 402 Ill. App. 3d 91, 94 (2010).

¶ 43 Regardless of the employer's appellate brief deficiencies, we disagree that the outlined findings demonstrate the Commission's decision should be upheld. First, the fact that the claimant operated a clutch during the entire 2015 construction season post-accident without reporting an issue has little to no significance. The claimant's current condition, post-surgery (2016), is the operative condition. Second, although the FCE provided the claimant could perform his job with the exception of operating a clutch, there is contrary subsequent evidence of record when the claimant returned to work in November 2017, specifically, the claimant's testimony and Dr. Kelikian's notes and restrictions. We note the claimant experienced constant ankle swelling, which the arbitrator noted viewing at the hearing, which was four years after surgery when Dr. Kelikian stated that the swelling would subside to normal after a successful surgery. Also, the FCE simulated the claimant entering the cab only four times when evidence showed his job could

require him to enter and exit the cab many more times per day. The employer also points to the Commission's finding that the claimant's testimony regarding the physical labor aspect of his job was not credible. This credibility determination is properly resolved in the claimant's favor. The employer's agents could not testify as to when certain policies or job descriptions went into effect and other evidence (such as Kinsella's testimony and the video footage) independently corroborated the claimant's testimony. Schumal testified the job description entered into evidence was the job the claimant previously performed and was the *same* job he would perform if he were to return to the company. The evidence shows the claimant can no longer perform that job.

¶ 44 Finally, the employer states Dr. Kelikian's only restriction was that the claimant could not operate a clutch. This completely disregards Dr. Kelikian's last and final restrictions providing medium level activity, no climbing on the truck or trailer, no clutch driving, and no shoveling over 100 pounds. At no point in Dr. Kelikian's testimony did he state the restriction was no longer in place and there was no later release superseding it. We also note that Stafseth testified as to the claimant's job opportunities and earning capacity. The employer discounts this testimony and merely states that it had no relevance where Dr. Kelikian testified that the claimant could return to work within the limits of the FCE. Again, this argument misconstrues Dr. Kelikian's testimony.

¶ 45 Based on the foregoing, we find the evidence demonstrated that the claimant is partially incapacitated from pursuing his usual and customary line of employment and there is a difference between the average amount which he would be able to earn in the full performance of his duties in the occupation in which he was engaged at the time of the accident and the average amount which he is earning or is able to earn in some suitable employment or business after the accident. 820 ILCS 305/8(d)(1), (2) (West 2014). Thus, the Commission's award of PPD instead of a wage differential was against the manifest weight of the evidence.

¶ 46 B. TTD Award

¶ 47 The employer makes no specific argument as it relates to the claimant's TTD award. In fact, the employer does not discuss the issue as to when the claimant notified the employer that he was ready to return to work, which is critical here in determining the dates for the TTD award it apparently disputes. Again, Rule 341(h)(7) requires both argument and citation to relevant authority. *Vancura v. Katris*, 238 Ill. 2d 352, 370 (2010). "An issue that is merely listed or included in a vague allegation of error is not 'argued' and will not satisfy the requirements of the rule." *Id.* Moreover, the appellate court is not a depository in which the appellant may dump the burden of argument and research. *Thrall Car Manufacturing v. Lindquist*, 145 Ill. App. 3d 712, 719 (1986). Therefore, we find that the employer forfeited review of the claimant's TTD award.

¶ 48 III. CONCLUSION

¶ 49 For the foregoing reasons, we affirm the judgment of the circuit court of Will County, which reversed the Commission's decision and remanded the matter for (1) recalculation of the claimant's TTD award and (2) calculation of a wage-differential award.

¶ 50 Affirmed.