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

SCOTT FILLBACK,)	Appeal from the Circuit Court
)	of Madison County.
Appellant,)	
)	
v.)	No. 09-MR-708
)	
ILLINOIS WORKERS' COMPENSATION)	
COMMISSION <i>et al.</i>)	Honorable
)	Clarence W. Harrison II,
(Keller Construction, Appellee).)	Judge, Presiding.

JUSTICE HUDSON delivered the judgment of the court.
Presiding Justice McCullough and Justices Hoffman, Holdridge, and Stewart concurred in the judgment.

ORDER

Held: (1) Respondent's motion to dismiss claimant's appeal in its entirety, which was taken with the case, would be denied; although sole issue as captioned by claimant in his brief was not raised before Commission or adequately presented to the circuit court, a review of the text of claimant's brief indicates that claimant also raises an issue that was argued before the Commission and the circuit court; (2) claimant's contention that arbitrator's findings of fact, as adopted by the Commission, failed to minimally articulate the reasons for denying claimant's request for benefits so as to provide an adequate basis for meaningful review in the appellate court has been waived because claimant argues this issue for the first time on appeal; even absent waiver, however,

claimant's argument is without merit where arbitrator set forth 3½ pages of findings of fact followed by his conclusions of law; (3) the Commission's conclusion that claimant failed to prove a causal connection between his work accident and his shoulder and neck conditions is not against the manifest weight of the evidence where the Commission found that claimant provided both inconsistent histories of his accident and the onset date of shoulder and neck complaints, thus rendering his testimony not credible.

Claimant, Scott Fillback, filed an application for adjustment of claim pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2006)) alleging that he injured his right hand, right wrist, right shoulder, and neck on November 8, 2007, while working for respondent, Keller Construction. The matter proceeded to a hearing held pursuant to section 19(b) of the Act (820 ILCS 305/19(b) (West 2006)), after which the arbitrator found that although a laceration to claimant's right hand was compensable, claimant failed to prove a causal connection between his work accident and his right shoulder and neck complaints. The Illinois Workers' Compensation Commission (Commission) affirmed and adopted the decision of the arbitrator and remanded the matter for further proceedings pursuant to *Thomas v. Industrial Comm'n*, 78 Ill. 2d 327 (1980). The circuit court of Madison County confirmed. On appeal, claimant challenges the Commission's findings on causation with respect to his shoulder and neck complaints. We affirm.

I. BACKGROUND

The following facts necessary to a resolution of this appeal are taken from the evidence presented by the parties at the hearing on claimant's application for adjustment of claim, which took place on January 29, 2009. Claimant has been a union carpenter since 1984. On November 8, 2007, claimant was working for respondent on a bridge project in Glen Carbon, Illinois. He was carrying a piece of lumber when he tripped, landing on vertical rebar. As a result of the fall, claimant

sustained a laceration to his right hand. Claimant was taken to a local hospital by the job site supervisor. According to claimant, the emergency room was very busy, and after waiting 10 to 15 minutes with his hand still bleeding, he decided to go to respondent's office without being treated. At respondent's office, claimant was instructed to report to Midwest Occupational Medicine (Midwest) for an examination.

At Midwest, claimant related a history to Dr. Kia Swan-Moore of tripping and catching his thumb on a sharp end of rebar. Claimant received five stitches at the base of the right thumb, and the wound was bandaged. According to claimant, he was released to return to work with "right hand restrictions." Claimant returned to Midwest on November 9, 2007, for a wound check by Dr. Bob Burris. At that time, claimant complained of tenderness in the area of the laceration. The wound was cleansed and rebandaged. Claimant was instructed to continue with the work restriction. Claimant acknowledged that when he was first treated at Midwest, he did not relate any complaints with respect to either his shoulder or neck.

Respondent accommodated the restriction imposed by the doctors at Midwest. Claimant testified that during the period of light-duty work, he mentioned on two occasions to Ed Ackers, his supervisor, that his neck or right shoulder hurt. The first occasion was when claimant was unloading 80- to 100-pound oxygen and acetylene tanks from a truck. With respect to the second occasion, claimant testified that Ackers asked him how he was doing. Claimant replied that his arm, shoulder, and neck hurt. According to claimant, Ackers responded, "[c]ome on, don't start that."

On November 19, 2007, the stitches in claimant's right hand were removed by Dr. Burris. The progress note from that date indicates that claimant had "no significant complaints," describing

only slight soreness in the area of his laceration. The assessment was “hand laceration, resolved.” Claimant was released to return to work with no restrictions. Claimant testified that he disagreed with full-duty release. He explained that as a carpenter working bridge jobs he “hang[s] with a safety harness and was concerned about hanging on with one hand.” Claimant further alleged that he specifically related shoulder and neck complaints to Dr. Burris on November 19, 2007, including difficulty raising his arm. Claimant testified that when he confronted Dr. Burris about the scope of the release, he was told that the doctor did not know the specifics of his work. After claimant left Midwest, he went to the union hall to discuss the matter with a representative. The union representative told claimant to either return to full-duty work or seek a second opinion. On July 23, 2008, at claimant’s request, the union representative memorialized this conversation in a letter. Claimant returned to work and was immediately laid off. Claimant testified that he worked light duty full time until being laid off on November 19, 2007. Claimant has not worked since that date, but he did collect unemployment benefits for a period of time.

Claimant sought a second opinion from his personal physician, Dr. Bruce Weber, on December 6, 2007. Claimant related a history of pain in his right trapezius area, right shoulder, and right thumb since falling on rebar at work on November 8, 2007. Dr. Weber’s diagnosis was right shoulder strain and nondiscogenic cervical spine disorder. Dr. Weber referred claimant to Dr. Thomas Hansen, an orthopaedist, for his shoulder complaints. When claimant saw Dr. Hansen on February 7, 2008, his chief complaint was right shoulder pain and hand pain. Dr. Hansen recorded a history of claimant falling on an outstretched hand on September 8, 2007, but listed claimant’s past medical history as “negative.” X rays showed a type-3 acromion. Dr. Hansen diagnosed right

shoulder pain and right thumb pain, and he was concerned about a rotator cuff tear. Dr. Hansen also noted that claimant appeared to have some neck pain, and he referred claimant to Dr. Per Freitag, an orthopaedic surgeon, for that condition.

Claimant saw Dr. Freitag on February 14, 2008, and provided a history of falling four feet while working on a bridge carrying a large wood post. Claimant told Dr. Freitag that he injured his right hand and right shoulder in the fall. Claimant reported that he later developed progressive neck pain with pain worse into the left shoulder than the right. Claimant told Dr. Freitag that he had no neck pain prior to this injury. Cervical-spine X rays showed minimal osteophyte formation at C6-7 without significant spondylosis. At Dr. Freitag's request, a cervical MRI was taken on February 19, 2008.

Claimant returned to Dr. Freitag's office on March 6, 2008, complaining of cervical, thoracic, and lumbar spine pain, right thumb pain, left iliac crest (hip) pain, and shoulder pain from his work accident. He also reported significant nausea because of the severity of his pain. Dr. Freitag reviewed the February 19, 2008, MRI and interpreted it as showing mild disc bulging at C5-6 and C6-7 without nerve root or cord encroachment. He noted that it could be "natural" for someone of claimant's age to have a couple of bulging discs in the neck. Radiographic films of the pelvis were normal. Diagnosis was multiple pain-related complaints likely in the cervical and lumbar spine, right shoulder, right thumb, and left upper iliac crest. Claimant refused physical therapy for his shoulder. Epidural injections were recommended for the cervical spine. Claimant was referred to Dr. David Olysav for his left iliac crest pain. An EMG of claimant's upper extremities was also ordered.

Claimant was seen on March 20, 2008, by Dr. Olysav for his left hip pain. Claimant reported

that he fell from a bridge in November and developed hip pain one to two weeks later, but did not seek treatment at that time. The examination was consistent with a hip pointer. Exercises were recommended, and no further treatment was indicated.

On April 3, 2008, claimant again saw Dr. Freitag, reporting significant neck pain, headaches, and numbness and tingling into both extremities affecting all aspects of both hands. Dr. Freitag reviewed the EMG and diagnosed claimant with bilateral cervical radiculopathy at C5, C6, and C7, with right being worse than left, and mild right carpal tunnel syndrome. Epidural injections were recommended. Claimant underwent the injections but stated that they provided no relief. As a result, claimant underwent neck surgery with Dr. Freitag on August 1, 2008, consisting of an endoscopic laminectomy and foraminoplasty at the C4-5, C5-6, and C6-7 levels. Claimant initially told Dr. Freitag that he was significantly better after the surgery. However, by September 25, 2008, claimant reported little improvement.

At the arbitration hearing, claimant testified that he continues to experience constant pain in his neck and right shoulder which affects his daily living. For instance, claimant related that he has difficulty driving his five-speed car because he has problems shifting gears and turning his head sideways. Claimant also related that he has difficulty holding his head up, that he is unable to take care of regular household chores, and that he can no longer participate in certain hobbies such as hunting, fishing, and playing sports. Claimant added that prior to November 8, 2007, he did not experience pain in his neck or right shoulder.

On cross-examination, claimant testified that he fell from a standing height down to the ground. He later indicated that he fell three to four feet down to the ground. Further, at one point,

claimant indicated that he experienced pain in his shoulder and neck immediately after the accident. However, he later testified that he did not notice the pain immediately. Rather, he indicated that he first noticed neck and shoulder pain a couple of days after he had stitches, when he spoke with Ackers. Claimant also indicated that he did not relate any complaints about his neck or shoulder to any doctor at any time prior to being laid off by respondent on November 19, 2007.

Tom Lavelle, the project manager for the Glen Carbon bridge job and safety director for respondent, testified that he had at least two conversations with claimant in the days following the accident. During both of these discussions, Lavelle specifically asked claimant how he was doing. According to Lavelle, claimant never complained about his neck or right shoulder. Rather, in response to his inquiries, claimant stated that he was “good to go.”

Dr. Burris testified by evidence deposition that he treated claimant at Midwest on November 9, 2007, and November 19, 2007. During claimant’s first visit, Dr. Burris examined his right hand, which had been sutured previously. At that time, claimant did not describe any complaints relating to his shoulders or neck. Similarly, Dr. Burris testified that at the November 19, 2007, examination, claimant reported slight soreness at the laceration site, but related no other complaints. Dr. Burris testified that had claimant voiced concern about a neck or shoulder injury, he would have noted it and followed up with him on subsequent visits. Dr. Burris was asked how long it would typically take for neck or shoulder symptoms to manifest in the context of a fall. He responded that it would depend on the severity of the fall. He stated that if someone fell down a flight of stairs, the symptoms would manifest fairly quickly. In other circumstances, he would expect the symptoms to manifest in 24 to 48 hours.

Dr. Russell Cantrell testified by evidence deposition that he examined claimant on June 25, 2008, at respondent's request. Claimant told Dr. Cantrell that on November 8, 2007, he had "stumbled, falling forward on his outstretched right hand, with a resultant laceration to his right thumb from a piece of rebar that was sitting upright through a piece of concrete base" and that he "subsequently f[ell] onto his right side." Claimant further related that he had his hand sutured and advised the treating physician at a follow-up visit of right shoulder problems, but a shoulder examination was not performed. At the time of Dr. Cantrell's examination, claimant's complaints included neck pain, pain in the base of the thumb, and pain in the right shoulder without any numbness or tingling in either upper extremity. Dr. Cantrell explained that the absence of numbness and tingling was significant because those symptoms are commonly seen in individuals experiencing cervical radiculopathy. Dr. Cantrell further testified that upon physical examination, claimant's reflexes were symmetric in both upper and lower extremities. Dr. Cantrell explained that this was significant because if an individual is experiencing a unilateral radiculopathy, he would be expected to have asymmetry in reflexes.

Ultimately, Dr. Cantrell found no evidence of a discogenic problem in claimant's cervical spine or any evidence of cervical radiculopathy. Dr. Cantrell stated that if someone has an accident that results in a discogenic or cervical discogenic problem that would result in bilateral upper extremity complaints, he would expect those symptoms to manifest within 24 to 72 hours after the accident. Moreover, he was unaware of any circumstances under which symptoms related to a discogenic problem would take as long as a month to manifest. Ultimately, Dr. Cantrell concluded that as a result of his work injury, claimant sustained a thumb laceration and, perhaps, a shoulder

strain on the right side. However, he found that claimant had reached maximum medical improvement and did not require any further treatment or diagnostic testing.

Dr. Freitag also testified by evidence deposition. During the deposition, he was presented with a written hypothetical by claimant's attorney and told to "assume [the hypothetical] is a statement paraphrased from claimant's history of the etiology of the accident." Dr. Freitag was then asked whether the accident, "as described [in the hypothetical] and recorded by [him] during [his] treating the claimant," would have caused or made symptomatic the problems for which he treated claimant. Dr. Freitag responded by stating that in falling forward, claimant could have jerked his neck around resulting in some bulging of the two discs as well as some irritation of the facet joints and the underlying nerves in the mid- to lower-cervical spine. Dr. Freitag did not believe that claimant had reached maximum medical improvement. On cross-examination, Dr. Freitag testified that he would generally expect someone to report complaints of neck or shoulder pain "a few days" after a traumatic injury involving the neck or shoulder. He added, however, that although radicular-type symptoms such as numbness, tingling, and pain radiating to the extremities are "too variable" upon which to place a time frame, he would estimate an onset of "a few weeks, certainly not immediately." Nevertheless, he opined that an onset of four to five months would be "a little unusual if [the patient] was totally free of pain prior to that time."

Admitted into evidence were records from St. Francis Hospital in Litchfield, Illinois, which establish that claimant sought treatment at the facility on various occasions between August 2004 and the date of his work accident. The records show that on February 26, 2007, claimant presented to the emergency room with neck and chest pain. In addition, on April 2, 2007, claimant presented

with recurrent headaches after being hit with a rake. At that time, an X ray of the cervical spine was taken. The X ray revealed tiny hypertrophic spurs arising from the vertebral end plates from C5 through C7, which were characterized as mild degenerative changes, but no other abnormalities were noted.

Based on the foregoing evidence, the arbitrator concluded that claimant failed to prove a causal connection between his employment and his right shoulder and neck conditions. The arbitrator explained:

“[Claimant] described inconsistent histories of the accident at trial and to his physicians. [Claimant] complained of no injuries beyond a laceration to his hand until weeks had passed and only after he was laid off. He worked one-handed work for weeks, which included all the overtime he could get, before getting laid off. He applied for and received unemployment benefits. His shoulder, neck and left hip complaints started weeks or months after the accident.”

The Commission affirmed and adopted the decision of the arbitrator and remanded the cause for further proceedings pursuant to *Thomas*, 78 Ill. 2d 327. Thereafter, the circuit court of Madison County confirmed the decision of the Commission. This appeal ensued.

II. ANALYSIS

As phrased by claimant in a heading in his brief, the only issue presented for review is whether the arbitrator’s findings of fact, as adopted by the Commission, failed to minimally articulate the reasons for denying his claim so as to provide a basis for meaningful appellate review. Respondent has filed a motion to dismiss claimant’s appeal in its entirety, asserting this issue is

being raised for the first time before this court. We took respondent's motion to dismiss with the case, and for the reasons set forth below, we now deny that motion.

It is well established that in reviewing a decision of the Commission, a court may consider only those arguments that were before the Commission. *Fitts v. Industrial Comm'n*, 172 Ill. 2d 303, 308 (1996). Thus, arguments made for the first time on appeal are waived and need not be considered by a reviewing court. See *Thomas*, 78 Ill. 2d at 336; *Kropp Forge Co. v. Industrial Comm'n*, 225 Ill. App. 3d 244, 252 (1992). Our supreme court has explained that allowing a party to change his or her theory of the case on appeal would weaken the adversarial process and the system of appellate jurisdiction and would likely prejudice the other party. *Haudrich v. Howmedica, Inc.*, 169 Ill. 2d 525, 536 (1996). In this case, although claimant lists only one issue in his brief, our examination of the text of his brief establishes that claimant actually raises two distinct issues: (1) whether the arbitrator's findings of fact, as adopted by the Commission, failed to minimally articulate the reasons for denying the claim so as to provide a basis for meaningful appellate review; and (2) whether claimant's shoulder and neck conditions were causally connected to his work accident. This latter issue was argued before the arbitrator, the Commission, and the circuit court. Accordingly, we deny respondent's motion to dismiss claimant's appeal in its entirety.

Nevertheless, we agree that claimant did not argue in his statement of exceptions before the Commission that the arbitrator's findings of fact were inadequate to provide meaningful review. Further, while claimant did file a memorandum in the circuit court citing three cases which discuss whether an administrative agency failed to elucidate specific facts and conclusions of law so as to provide a basis for meaningful appellate review (see *Wade v. City of North Chicago Police Pension*

Board, 359 Ill. App. 3d 224 (2005), *rev'd on other grounds*, 226 Ill. 2d 485 (2007); *Simburger v. Industrial Comm'n*, 140 Ill. App. 3d 371 (1986); *National Biscuit, Inc. v. Industrial Comm'n*, 129 Ill. App. 3d 118 (1984)), he did not explain in the memorandum how these authorities applied to the present proceedings. Arguments inadequately presented at the appellate level are also considered waived. See *Eckel v. Bynum*, 240 Ill. App. 3d 867, 881 (1992) (noting that argument set forth in brief but for which no argument was made would be considered waived); *People v. Webber*, 234 Ill. App. 3d 641, 644 (1992) (finding argument waived where the defendant did not set forth reasons in support of his contention). Thus, in accordance with the authorities set forth above, claimant's argument that the arbitrator's findings of fact, as adopted by the Commission, failed to provide a basis for meaningful appellate review has been waived.

Even absent waiver, however, we would reject claimant's argument. Section 19(b) of the Act (820 ILCS 305/19(b) (West 2006)) states in relevant part that "all decisions of the Arbitrator shall set forth in writing findings of fact and conclusions of law, separately stated, *if requested by either party*." (Emphasis added.) Here, claimant does not indicate where in the record he or respondent requested that the arbitrator's findings of fact and conclusions of law be in writing. Further, on the merits, claimant's argument is without foundation. Claimant asserts that "except in a conclusory fashion," the arbitrator did not indicate why he found that claimant failed to establish that his shoulder and neck conditions were not causally connected to his employment. However, the arbitrator set forth 3½ pages of findings of fact. Relying on those findings of fact, the arbitrator then concluded that claimant failed to prove a causal connection between his right shoulder, neck, and hip conditions and his work accident. In support of this conclusion, the arbitrator expressly cited the

inconsistent histories of the accident that claimant related at the arbitration hearing and to his physicians, claimant's failure to voice a complaint of injuries beyond a hand laceration until weeks had passed and he had been laid off, claimant's ability to work one-handed for weeks before being laid off, and claimant's receipt of unemployment benefits, which the arbitrator noted meant that claimant represented that he was "willing and able to do some type of work." As such, we find that the arbitrator's findings of fact and conclusions of law, as adopted by the Commission, provided a sufficient basis for meaningful appellate review.

We also conclude that the cases cited by claimant in support of his contention that the arbitrator failed to sufficiently articulate the reasons for denying his claim do not dictate a different result. In *National Biscuit, Inc.*, 129 Ill. App. 3d at 120, we vacated the Commission's award because we found that the Commission "made *no* findings of law and fact." (Emphasis added.) As discussed above, this is clearly not the case here. In *Simburger*, 140 Ill. App. 3d at 374-75, we found that although the arbitrator's written findings of fact were "bare," they, along with the arbitrator's conclusions of law, were sufficient to conduct a meaningful review. Similarly, in *Wade*, 359 Ill. App. 3d at 231, *rev'd on other grounds*, 226 Ill. 2d 485 (2007), the court found that the administrative agency *did* articulate its findings so that the appellate court was able to effectuate meaningful review. We note that the passage from *Wade* cited by claimant in his brief also involves a discussion of *Coyne v. Milan Police Pension Board*, 347 Ill. App. 3d 713 (2004). While the *Coyne* court did reverse and remand the decision of the administrative agency denying a disability pension to a former police officer, it did so because the agency did not articulate the findings upon which it based its determination. *Coyne*, 347 Ill. App. 3d at 724. As noted above, that simply is not the case

here.

Having disposed of claimant's first contention, we now turn to whether the Commission erred in finding that he failed to establish a causal connection between his work accident and his neck and right shoulder conditions. The burden is on the party seeking an award under the Act to prove by a preponderance of the evidence all of the elements of his or her claim. *Parro v. Industrial Comm'n*, 260 Ill. App. 3d 551, 553 (1993), *aff'd*, 167 Ill. 2d 385 (1995). Among other things, the employee must establish that he or she was injured in an accident that arose out of and in the course of employment and that there is a causal connection between the employment and the injury for which he or she seeks benefits. *Boyd Electric v. Dee*, 356 Ill. App. 3d 851, 860 (2005). In this case, it is undisputed that claimant sustained an accident on November 8, 2007, while in respondent's employ. At issue is if claimant's right shoulder and neck complaints are causally related to that accident. Whether a causal connection exists between an employee's work-related accident and his or her current condition of ill-being is a question of fact for the Commission. *P.I.&I. Motor Express, Inc./For U, LLC v. Industrial Comm'n*, 368 Ill. App. 3d 230, 240 (2006). In deciding issues of fact, it is the function of the Commission to determine the weight to be given to the evidence, to judge the credibility of the witnesses, and to resolve conflicting medical evidence. *Boyd Electric*, 356 Ill. App. 3d at 860-61. Although we might draw different inferences from the facts, a reviewing court will not overturn the Commission's decision on a factual matter unless it is against the manifest weight of the evidence. *P.I.&I. Motor Express, Inc./For U, LLC*, 368 Ill. App. 3d at 240. For the Commission's decision to be against the manifest weight of the evidence, the record must disclose that an opposite conclusion clearly was the proper result. *Vogel v. Industrial Comm'n*, 354 Ill. App.

3d 780, 786 (2005).

Claimant insists that the findings of the arbitrator, as adopted by the Commission, are “clearly erroneous” because the medical evidence establishes that his right shoulder and neck conditions are causally connected to his work accident. However, the arbitrator reached a contrary result, relying not on the medical evidence, but on his finding that claimant was not credible. Significantly, the arbitrator found that claimant “described inconsistent histories of the accident at trial and to his physicians” and he “complained of no injuries beyond a laceration to his hand until weeks had passed and only after he was laid off.” The Commission unanimously affirmed and adopted the findings of the arbitrator. The Commission’s findings are supported by the record.

In particular, the record establishes that claimant provided inconsistent testimony concerning the mechanics of his fall. For instance, claimant told Dr. Freitag that he fell four feet while working on a bridge carrying a large wooden post. However, at the arbitration hearing, claimant was equivocal about whether he had fallen from a height of a few feet or whether he had simply fallen forward at ground level.

Moreover, claimant provided inconsistent testimony concerning the onset of pain in his neck and shoulders. At one point during the arbitration hearing, claimant indicated that he “immediately” noticed pain in his neck and shoulder. He later attempted to clarify his testimony, stating that he first noticed neck and shoulder pain a couple of days after receiving stitches when he spoke to Ackers. Claimant also testified that he reported the onset of neck and shoulder pain on November 19, 2007, when he had the stitches in his hand removed. However, these histories are contradicted by other evidence presented at the arbitration hearing. Notably, the medical records do not show any shoulder

or neck complaints until December 6, 2007, almost one month after the accident and following the date claimant was laid off. Further, claimant continued to work after the accident, albeit light duty. During this time, Lavelle, respondent's safety director, testified that he asked claimant on two occasions how he was doing. Both times, claimant did not relate any complaints about his neck or shoulders, replying simply that he was "good to go." Similarly, Dr. Burriss denied that claimant related shoulder or neck complaints on November 19, 2007, when the stitches were removed from claimant's hand. Dr. Burriss testified that had claimant voiced concern about a neck or shoulder injury, he would have noted it and followed up with him on subsequent visits. In addition, while claimant's union representative authored a letter indicating that claimant mentioned shoulder soreness to him, the letter was initiated at claimant's request more than eight months after the conversation allegedly took place.

We also note that claimant's testimony regarding the onset of neck and shoulder pain is contradicted by medical evidence presented at the arbitration hearing concerning the typical onset of such symptoms. Dr. Burriss testified that, as a general rule, if an individual falls, any neck or shoulder symptoms should manifest within 24 to 48 hours. Likewise, Dr. Cantrell stated that if someone has an accident that results in a discogenic or cervical discogenic problem leading to bilateral upper extremity complaints, he would expect those symptoms to manifest within 24 to 72 hours after the trauma. Dr. Cantrell added that he was unaware of any circumstances under which symptoms related to a discogenic problem would take as long as a month to manifest. Even the testimony of claimant's principal treating physician, Dr. Freitag, is not in accord with claimant's history of pain onset. Dr. Freitag stated that although radicular-type symptoms, *i.e.*, numbness,

tingling, and pain radiating to the extremities, are “too variable” upon which to place a time frame, he would estimate an onset of “a few weeks, certainly not immediately.” However, Dr. Freitag also stated that he would generally expect an individual to report complaints of neck or shoulder pain “a few days” after a traumatic injury involving either of those parts of the body. We further note that claimant’s testimony about his past medical history, in particular his statement that he had no problems with pain in his neck or shoulder prior to the November 8, 2007, accident, is contradicted by the records from St. Francis Hospital.

In light of the foregoing evidence, the Commission weighed claimant’s history of the accident and onset of neck and shoulder pain against other testimony of record. The Commission resolved the inconsistencies against claimant and found that claimant failed to sustain his burden of establishing that his shoulder and neck complaints were causally connected to his accident at work on November 8, 2007. As noted above, it is the function of the Commission to determine the weight to be given to the evidence, to judge the credibility of the witnesses, and to resolve conflicting medical evidence. *Boyd Electric*, 356 Ill. App. 3d at 860-61. Based on the record before us, we cannot say that the Commission’s decision is against the manifest weight of the evidence, as an opposite conclusion is not clearly apparent.

III. CONCLUSION

For the reasons set forth above, we affirm the judgment of the circuit court of Madison County, which confirmed the decision of the Commission finding that claimant failed to sustain his burden of establishing a causal connection between his shoulder and neck complaints and his work accident of November 8, 2007. This cause is remanded for further proceedings pursuant to *Thomas*,

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78 Ill. 2d 327.

Affirmed and remanded.