

No. 2—09—0505WC  
Order filed January 20, 2011

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

---

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

---

INDIAN PRAIRIE SCHOOL DISTRICT #204,	)	Appeal from the Circuit Court
	)	of Kane County.
Plaintiff-Appellant,	)	
	)	
v.	)	No. 09—MR—78
	)	
ILLINOIS WORKERS' COMPENSATION	)	
COMMISSION and FRANCENE NORRIS-	)	
CHRISTNER,	)	Honorable
	)	Michael J. Colwell,
Defendants-Appellees.	)	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:* The Commission's finding that claimant suffered permanent and total disability is not against the manifest weight of the evidence.

Claimant, Francene Norris-Christner, filed two applications for adjustment of claim pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2000)) alleging that she sustained injuries to her left knee and lower back while in the employ of Indian Prairie School District #204 (respondent). The arbitrator agreed, the Workers' Compensation Commission

(Commission) adopted the opinion of the arbitrator, and the circuit court of Kane County confirmed the Commission's decision. Various awards that are not at issue in this appeal were made, including temporary total disability and medical expenses. Respondent does not dispute that claimant suffered two work-related injuries: a September 1999 injury to her back and a January 2000 injury to her knee. The sole issue raised before this court concerns the Commission's award of \$337.43 per week for life due to claimant's permanent and total disability (PTD) (820 ILCS 305/8(f) (West 2000)). For the reasons that follow, we affirm.

A claimant is permanently and totally disabled when he or she is "unable to make some contribution to industry sufficient to justify payment of wages." *City of Chicago v. Workers' Compensation Comm'n*, 373 Ill. App. 3d 1080, 1089 (2007). However, a claimant need not be reduced to a state of complete physical incapacity before an award of PTD may be made. *Ceco Corp. v. Industrial Comm'n*, 95 Ill. 2d 278, 286-87 (1983). There are three ways in which a claimant can prove permanent and total disability: by setting forth a preponderance of the medical evidence showing the extent of the disability; by showing a diligent but unsuccessful search for employment; or by showing that due to his or her age, education, training, work experience, and condition that there are no jobs available for the claimant. *ABB C-E Services v. Industrial Comm'n*, 316 Ill. App. 3d 745, 749-50 (2000). In this case, claimant relies upon medical evidence. Hence, she must show that her disability is such that she "is unemployable, *i.e.*, unable to perform services except those that are so limited in quantity, dependability or quality that there is no reasonably steady market for them." *Alano v. Industrial Comm'n*, 282 Ill. App. 3d 531, 534 (1996). The focus, then, is upon the extent to which the claimant's disability impairs her ability to work. *Alano*, 282 Ill. App. 3d at 534. Whether a claimant is permanently and totally disabled presents a factual question reviewed using

the manifest-weight standard of review. *ABB C-E Services*, 316 Ill. App. 3d at 750. Accordingly, we will reverse only if an opposite conclusion is clearly apparent. *Old Ben Coal Co. v. Industrial Comm'n*, 261 Ill. App. 3d 812, 819 (1994), quoting *Caterpillar, Inc. v. Industrial Comm'n*, 228 Ill. App. 3d 288, 291 (1992). With these standards in mind, we will recount the evidence relevant to assessing the extent to which claimant's condition impacts her ability to work.

Claimant testified that she has been diagnosed by three different doctors with complex regional pain syndrome (CRPS) of her lower left extremity. This syndrome causes claimant to experience severe pain in her left knee. She initially treated with an orthopedic surgeon, Dr. Gregory Markarian. He prescribed pain medication (Vicodin) and ordered claimant off work. Markarian subsequently referred claimant to Dr. Charles Kim, a pain management specialist. Kim diagnosed CRPS, changed claimant's pain medication to Norco, and administered a series of “sympathetic lumbar blocks,” which provided minor and temporary relief. Markarian later referred claimant to Dr. Mary Jo Curran, another pain specialist. She shared Kim’s diagnosis of CRPS and also diagnosed axial back pain. Curran prescribed a cane, which claimant was still using as of the date of the arbitration hearing. Claimant explained that she needs the cane to steady herself and that she never walks without it. Claimant treated with Curran from November 2000 to December 2003 (she ultimately had to switch doctors due to an insurance issue). At that time, she was still experiencing severe pain in her left knee as well as in her lower back.

Claimant testified that she can no longer engage in a number of ordinary activities, including gardening; picking up her children; getting dressed without assistance; wearing shoes with ties; and brushing her hair. She has difficulty cooking, cleaning, and shopping. She cannot sit or stand for prolonged periods of time. She stated that she can “barely get out of bed and do activities with [her]

children because of the pain that [she] experiences in [her] left leg and knee and [her] back.” The Commission, in adopting the decision of the arbitrator, expressly found claimant’s testimony credible.

Curran also testified on claimant's behalf via evidence deposition. She first examined claimant on November 14, 2000. She stopped seeing claimant on December 2, 2003, because claimant started utilizing Social Security Disability Insurance and Medicare, which Curran did not accept. She referred claimant to Dr. Scott Glaser at that point (another pain management doctor). Curran diagnosed CRPS of the lower left extremity, axial low-back pain, and discogenic pain.

Curran explained that CRPS is a “constellation of symptoms” that is “usually triggered by a traumatic injury.” The trauma need not be severe. Typically, additional symptoms are present, such as “edema, color changes of the extremity, [or] temperature changes of he extremity.” Further, “[t]he extremity is extremely sensitive to light touch.” She continued, “Usually a patient has what’s called allodynia, A-L-L-O-D-Y-N-I-A, which is where a light touch actually causes pain.” Claimant exhibited swelling, allodynia, color changes and temperature changes. Curran added that she had observed nothing to indicate that claimant was merely exaggerating her symptoms or that her complaints were psychological in nature. Curran opined that claimant’s CRPS was caused by the injury she sustained on January 31, 2000. Further, claimant’s injury that occurred in September 1999 is the cause of her current low-back and discogenic pain. Curran opined that claimant’s CRPS is permanent as is the condition of her back. Finally, Curran opined that the condition of claimant’s left knee “does not allow her to work in any occupation, and she is totally and permanently disabled due to the left knee injury.” This is primarily due to the severe pain claimant experiences. Curran also noted that, in a functional capacity evaluation (FCE), claimant “tested out at a very light level.”

Curran explained that at the time she treated claimant, she diagnosed claimant with a severe case of CRPS. She reviewed Glaser's records of the treatment she received subsequent to the time Curran treated claimant, which included the FCE, and nothing Curran observed would alter her opinion. Curran stated she was aware claimant was involved in an automobile accident in 1996 where she injured her left knee and that this did not change her opinion either.

During cross-examination, Curran acknowledged that she had not reviewed the records of Dr. Troy Karlsson, who examined claimant on respondent's behalf. Curran conducted no "Waddell testing or the like." Curran agreed that the FCE to which she had previously referred was "not really a full FCE." Rather, it was only a "baseline evaluation." A true FCE would go into greater detail.

Glaser also testified by evidence deposition. He first saw claimant in January 2004, and he last examined her in December 2005. He diagnosed claimant with CRPS of the left knee and lumbar facet arthropathy of the lower back. Glaser explained that CRPS "describes a patient who has chronic extremity pain which cannot be attributed to another known cause." Symptoms include "changes in temperature, changes in color, sensitivity, hypersensitivity, [or] frequently sweating." Some patients have some of these symptoms, others have most, while still others have few of them. Glaser testified that claimant "has many of the symptoms associated with" CRPS "including temperature changes and color changes and sensitivity, even to light pressure such as running water." Sensitivity to light touch is, in fact, common. Claimant exhibits allodynia. Hypersensitivity does not "imply anything as far as the psychological state of the patient." Glaser opined that claimant's accident of January 2000 was the cause of her CRPS. He also opined that the condition of her lower back is causally related to the injury she sustained in September 1999. Further, Glaser opined that both conditions were permanent. Finally, Glaser opined that, based on the FCE and his examinations

of claimant, she is totally and permanently disabled from working in any occupation. Glaser stated he considered the FCE to be a reliable indicator of claimant's capabilities. However, he clarified that his opinion that claimant was totally disabled was based on the FCE, the amount of pain claimant experiences, and the medications she takes along with their side effects.

During cross-examination, Glaser testified that he was aware of claimant's prior injury to her left knee. He was, however, unaware that claimant also injured her back in that accident. Glaser also testified that he was not familiar with Karlsson, but had never heard anything negative about him. He explained that CRPS used to be referred to as RSD (reflex sympathetic dystrophy). Glaser performed no type of Waddell's testing, adding that they have become controversial and he was "not sure what they'd tell us." He testified that he believed claimant's "pain is real." Glaser observed nothing that would indicate abuse of narcotics. Claimant's allodynia is limited to the area of her left knee. Glaser stated his opinion regarding claimant's ability to work was based primarily on the FCE, and, he continued, "This is a modified functional capacity evaluation" which he characterized as "a very cheap and dirty way of trying to see how functional a person is." He agreed a full FCE would have "greater validity."

On re-direct examination, Glaser was asked that, even if claimant were experiencing lingering effects from the 1996 automobile accident in January 2000, would the January 2000 accident at least have aggravated her condition. Glaser responded: "Well, more than aggravated the condition. I mean, I have no evidence that she had hypersensitivity and changes in color and all the symptoms she's having now prior to that accident." He added that none of her medical records revealed any indication of CRPS prior to January 2000.

Respondent submitted the evidence deposition of Dr. Troy Karlsson in support of its position. He twice examined claimant on respondent's behalf. Claimant related that she had experienced two injuries at work and complained of problems with her neck and back. Karlsson noted that claimant was overweight. Karlsson conducted a physical examination and reviewed an MRI, which he stated revealed some "slight degenerative changes." He diagnosed contusions to claimant's back and left knee. The only treatment he thought proper was "a couple weeks of therapy to instruct her on home exercises for her back." He did not feel any further treatment was necessary for claimant's knee. He described claimant's pain response to a light touch to her knee to be "out of proportion." Karlsson thought claimant might need psychological counseling.

Karlsson testified that he previously had treated patients with RSD and that claimant did not have RSD. He based this conclusion on his belief as to "the lack of findings that would go along with RSD, including skin changes, change in hair growth on the leg, usually at least some response to some of the injections and blocks." He opined that claimant's ongoing complaints are not related to the injuries claimant sustained at work. Karlsson believed there was nothing preventing claimant from returning to work.

During cross-examination, Karlsson averred that he had a "thorough knowledge" of CRPS. However, when asked whether he was familiar with allodynia, he stated, "I have not even heard of that term." He did agree that "extreme sensitivity to light touch" is consistent with a diagnosis of CRPS (despite his description of claimant's reaction to a light touch as being "out of proportion").

The Commission found that claimant was permanently and totally disabled as a result of the January 2000 accident. It specifically cited the opinions of Curran and Glaser. It also credited claimant's testimony during the arbitration hearing. Additionally, the Commission noted that

Karlsson's opinion was inconsistent with claimant's medical records in that Karlsson believed claimant experienced no relief from the sympathetic lumbar blocks administered to her when in fact she did receive some relief from them. Also relevant to Karlsson's credibility was the arbitrator's finding—which the Commission adopted—that “[h]is opinion lost all credibility when he testified he was unfamiliar with allodynia, a term even this arbitrator knows.”

Having recounted the testimony of claimant and her treating physicians, it is clear that there is ample evidence supporting the Commission's decision. Both Curran and Glaser opined that claimant was permanently disabled and incapable of working. Moreover, claimant's testimony revealed that she has significant difficulties in completing the most routine daily tasks. Even if we were to ignore the Commission's findings regarding Karlsson's credibility and attribute weight to his opinion, that would merely create a conflict in the evidence. Resolving such conflicts, particularly with respect to medical matters, is primarily for the Commission. See *St. Elizabeth's Hospital v. Workers' Compensation Comm'n*, 371 Ill. App. 3d 882, 887 (2007) (“It is the role of the Commission to resolve conflicts in the evidence, and this is particularly true with regard to medical-opinion evidence”). Given the substantial evidence supporting the Commission's decision, we cannot say that the decision was contrary to the manifest weight of the evidence.

Respondent spends considerable effort attempting to discredit the opinions of Curran and Glaser. Initially, we note that the Commission's decision was based not only on these opinions; rather, it relied on claimant's testimony as well. Thus, even if we were to reject them in their entirety, the Commission's decision would still have a foundation in the evidence. Moreover, we find respondent's attempt unpersuasive. Respondent's main argument is that the Commission referred to the limited, baseline FCE simply as an FCE. Generally, matters that form the basis of an

expert's opinion go to the weight to which the opinion is entitled. *Cassens Transport Co. v. Industrial Comm'n*, 262 Ill. App. 3d 324, 332 (1994). The weight to which evidence is entitled is primarily a matter for the Commission. *Ghere v. Industrial Comm'n*, 278 Ill. App. 3d 840, 847 (1996). In this case, both Glaser and Curran testified as to the limitations of the type of evaluation that was conducted. Thus, it is clear that they were aware of the nature of the examination when they formulated their opinions--as was the Commission when it rendered its decision regardless of how it referred to the evaluation. Further, Curran initially formulated her opinion before the evaluation occurred and based it primarily on the pain claimant experienced. She testified that the evaluation did nothing to change her opinion. Thus, the limited nature of the FCE does nothing to undermine Curran's opinion. Finally, even giving the limited nature of the FCE, Glaser nevertheless testified that it was a reliable indicator of claimant's abilities. We note that the mere fact that a full FCE would have been more probative does not mean the one that was actually performed was invalid. In short, that a limited rather than full FCE was conducted does little to undermine either Glaser's opinion or--even more so--Curran's opinion.

Also intertwined throughout this argument are a number of assertions by respondent intimating that it is impossible to tell whether claimant's inability to work is related to her knee or to her back condition. Respondent notes the Commission found that the September 1999 accident wherein she injured her back did not result in permanent and partial disability. Curran, however, in discussing the basis for her opinion that claimant is incapable of employment, testified as follows: "The primary problem is severe pain, which causes her to be unable to ambulate with ease, inability to stand for significant amounts of times, and also the swelling associated with the complex regional

pain syndrom *involving the left knee.*” Emphasis added. Clearly, Curran’s opinion is based on the condition of claimant’s knee.

Having reviewed the record and rejected all of respondent’s arguments, we cannot say that an opposite conclusion to that drawn by the Commission is clearly apparent. Hence, its decision is not contrary to the manifest weight of the evidence. See *Old Ben Coal Co.*, 261 Ill. App. 3d at 819. Accordingly, the judgment of the circuit court of Kane County confirming the decision of the Commission is affirmed.

Affirm.