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2012 IL App (4th) 110541WC-U

Order filed October 18, 1012

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

THOMAS TYSON,	)	Appeal from the Circuit Court
	)	of the 7th Judicial Circuit,
Appellant,	)	Sangamon County, Illinois
	)	
v.	)	Appeal No. 4-11-0541WC
	)	Circuit No. 10-MR-377
	)	
THE ILLINOIS WORKERS' COMPENSATION	)	Honorable
COMMISSION <i>et al.</i> (The State Journal	)	John W. Belz,
Register, Appellee).	)	Judge, Presiding.

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

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**ORDER**

- ¶ 1 *Held:* (1) The Commission's finding that the claimant failed to prove that he sustained an accident arising out of and in the course of his employment was not against the manifest weight of the evidence; (2) the Commission's finding that the claimant failed to prove that his current hip and knee conditions were causally related to his work activities was not against the manifest weight of the evidence.
- ¶ 2 The claimant, Thomas Tyson, filed an application for adjustment of claim under the Workers' Compensation Act (the Act) (820 ILCS 305/1 *et seq.* (West 2006)) seeking benefits for

hip and knee injuries he allegedly sustained while working for the respondent, The State Journal Register (employer). Following a hearing, an arbitrator found that the claimant had sustained accidental injuries arising out of the course of his employment and that his current hip and knee conditions were causally related to his job responsibilities. The arbitrator awarded the claimant benefits under a repetitive trauma theory, including temporary total disability (TTD) benefits, medical expenses, and prospective medical treatment.

¶ 3 The employer appealed the arbitrator's decision to the Illinois Workers' Compensation Commission (the Commission). The Commission found that the claimant had failed to prove accident and causation. Accordingly, the Commission reversed the arbitrator's decision and denied benefits.

¶ 4 The claimant sought judicial review of the Commission's decision in the circuit court of Sangamon County, which confirmed the Commission's decision. This appeal followed.

¶ 5 **FACTS**

¶ 6 The claimant worked for the employer as a pressman from November 1972 until October 2007, with the exception of six months of employment elsewhere in 1982. His job responsibilities were to operate, maintain, and clean the printing press. At the time he stopped working for the employer, the claimant was 58 years old.

¶ 7 Until 2005, the claimant worked the night shift almost exclusively. The official hours for the night shift were from 10 p.m. to 5:30 a.m., but the claimant testified that employees working the night shift were allowed to go home early if they finished early. The claimant stated that it was very common for night shift workers to leave around 4 a.m.

¶ 8 The claimant testified that, by the time he arrived at work at approximately 10 p.m., the day shift employees had usually completed much of the set up work for the presses to run, and the claimant would have to perform one to one and a half hours of further preparation to finish getting the presses ready to run. For example, the claimant would have to "plate" the press, which involved setting up the folder to run and putting up rails, if necessary. The claimant might also have to load paper into the press. This involved rolling rolls of paper from a dock onto a "truck" that was like a rail car and pushing the truck on tracks which ran around the press. These rolls of paper weighed between 1,000 and 2,000 pounds.<sup>1</sup> The claimant was not required to lift these rolls; he was merely required to roll them into the truck and push the truck along the rails. After the claimant finished all of the work necessary to get the presses running on a given day, he would take a break. The presses would begin running at approximately midnight.

¶ 9 The presses would run for three and a half to four hours per night. If the presses were running smoothly, the claimant alternated being on duty with a coworker. Each employee worked for 20 minutes and then went into the break room for 20 minutes while the other employee worked. While working on duty for these 20-minute periods, the claimant would stand and adjust the press by hitting buttons and switches while watching the newspaper to make sure it was printing correctly. The claimant would also monitor the paper to make sure that it was folding correctly. To do this, he would have to pull a newspaper out of the press every two or

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<sup>1</sup> The claimant did not testify how often he was required to load paper into the press. Although he stated that, on any given night, a pressman "may end up leading a sheet or two [of paper] through the press roller system, loading paper in the basement sometimes," he did not say how much paper he personally loaded on a daily, weekly, or, monthly basis.

three minutes to inspect it. The claimant testified that the only physically strenuous thing about this task was the constant bending over and standing back up. After the press machines ran, the claimant performed clean up duties, which took about 45 minutes. Thereafter, he would go home.

¶ 10 In 2005, the claimant began working the day shift approximately 75% of the time, and the night shift approximately 25% of the time. The claimant testified that the day shift involved a lot more heavy work than the night shift. For example, while working the day shift, the claimant was required to change and clean ink rollers weighing up to 180 pounds. These ink rollers had to be lifted (generally by two men) into brackets inside the press. This required the claimant to crawl into a small space inside the printing unit of the press which the claimant estimated to be approximately 30 inches by 36 inches. The claimant testified that, to be able to do this, he "practically [had] to cross [his legs] \*\*\* or be on [his] knees," both of which became very hard for him to do. The claimant testified that he had to perform this activity "maybe 1 or two days a week" for approximately three or four hours each of those days.

¶ 11 The claimant performed other maintenance tasks during the day shift that required climbing, kneeling, squatting, and bending. For example, while greasing the printing press, he climbed up and down ladders for approximately an hour and crawled on his knees in and out of different units. The claimant testified that the amount of climbing he did during a typical shift depended upon the maintenance that he was doing and that it was hard to specify how long he spent doing any one activity. However, he stated that "[i]t is not like you are sitting on an assembly line doing this all day."

¶ 12 In addition, the claimant testified that, while cleaning the press, a pressman is either on his knees, squatting, or bending "for probably a good couple of hours a day." He testified that cleaning the press was a daily activity which would sometimes occur two to three times per day. He stated that cleaning the printing cylinders could be done in a standing position, which was not a problem for him. However, in order to clean the rails, which are what feeds the ink into the press, the claimant had to either be on his knees or squat very low. He stated that he had to perform this task approximately two to three times per day on "9 different couplings and styles," and that there were several people who were involved in this process.

¶ 13 The employer presented into evidence a videotape depicting various work activities performed by pressmen during the day shift. The videotape shows employees performing eight or nine different work activities for one to two minutes each. The video shows employees kneeling, climbing into and out of awkward spaces, working in small spaces, placing rollers onto the press roller system, stepping on and off a step, squatting, pushing, pulling, and bending down to pick up newspapers.

¶ 14 The claimant testified that, on or around August 15, 2007, his hips and knees were hurting so badly that he couldn't stand and he had to take medication to get through a day's work. On October 23, 2007, Dr. Daniel Adair, an orthopedic surgeon who treated the claimant's hip and knee conditions, placed the claimant on light duty work restrictions until further notice. On October 30, 2007, the claimant filed an "Application for Adjustment of Claim" alleging permanent injuries caused by work-related repetitive trauma. The claimant alleged an accident date of August 15, 2007.

¶ 15 Sometime after the claimant stopped working, he contacted Cheryl Parkinson, a benefits coordinator who worked in the employer's human resources department, and notified her of his injury. On October 17, 2007, Parkinson prepared an online claim submission form provided by AIG Claim Services, Inc., which reported the claimant's workplace injury claim. In the form, Parkinson indicated that the claimant was injured during his "regular occupation" (*i.e.*, "while performing duties required by a pressman") and identified the cause of the claimant's injury as "Misc. Causes: Physical Stress of Repetitive Motion." In response to the question "How did this accident/injury occur?", Parkinson wrote "Repetitive movements of walking, climbing, crawling, bending through press units over the past 24 years."

¶ 16 On February 14, 2008, Parkinson completed and signed a separate information form for the claimant that was titled "Sun Life Assurance Company of Canada Short Term Disability Claim Packet." On the form, Parkinson checked a box indicating that she would classify the claimant's occupation as "heavy." She also checked a box indicating that the claimant's injury was due to "an injury or sickness arising out of his job."

¶ 17 The claimant had suffered from hip and knee problems for several years before he stopped working. He testified that he had had pain in his hips since 2000 and pain in both hips and both knees since 2003. The claimant's regular doctor at the time was Dr. Daniel Lanzotti. Dr. Lanzotti's medical records reflect that the claimant complained of left hip pain on August 14, 2000, and hip and knee pain on November 4, 2003. On the latter date, the claimant told Dr. Lanzotti that he could hardly move around and that any kind of movement, such as walking up and down stairs, bending, and stooping, gave him a lot of pain. On August 23, 2006, the claimant returned to Dr. Lanzotti complaining of right hip pain that radiated down to his right

knee. The claimant told Dr. Lanzotti that it was very difficult to lean over to tie his tennis shoes or put on socks because of the pain. In his August 23, 2006, medical record, Dr. Lanzotti noted that the claimant "ha[d] had some arthritic changes" in both knees in the past. At that time, the claimant underwent an X-ray of his left hip. The X-ray report noted "significant degenerative (age related) changes."

¶ 18 The claimant testified that, before he filed his claim, he had had "knee surgeries where they scraped my knee and actually went in and cleaned out debris that was causing my leg to lock and causing me a lot of pain." He testified that he was probably off of work for three months after one of these surgeries and for approximately six to eight weeks after another. Other than those periods, the claimant claimed that he did not take any significant time off of work as a result of hip or knee pain prior to October 2007.

¶ 19 Dr. Adair was the claimant's primary orthopedic surgeon for his hip and knee problems. Dr. Adair testified that he first saw the claimant on July 19, 2007, for treatment of claimant's "painful knees and painful hips and [his] inability to get around well." On that date, the claimant filled out a medical history form in which he indicated that he had been suffering hip and knee symptoms for the past ten years and that these were not work-related problems. There was no mention of the claimant's job or his job duties in Dr. Adair's July 19, 2007, medical record. After examining the claimant, Dr. Adair concluded that claimant was obese. Dr. Adair testified that the claimant's age and obesity, standing alone, indicated that the claimant was a very good candidate for the development of symptomatic osteoarthritis. In addition, the claimant indicated in his medical history form that he played racquetball, which Dr. Adair testified could hasten the onset of symptoms of osteoarthritis.

¶ 20 Moreover, the claimant's medical history form indicated that the claimant was taking arthritis medication and a strong, "narcotic-like" pain medication in July 2007. Dr. Adair testified that this indicated that the claimant was in a significant amount of pain at that time. Dr. Adair switched the claimant's arthritis medication and asked him to take an additional supplement for degenerative arthritis. He also ordered X-rays which showed mild to moderate degeneration in both knees and in the left hip, and more severe degeneration in the right hip.

¶ 21 The claimant returned to Dr. Adair on August 10, 2007. During that visit, Dr. Adair raised the possibility of a total hip replacement. Approximately one month later, the claimant decided to proceed with a total hip replacement surgery sometime in the future.<sup>2</sup> Dr. Adair's notes of these visits do not mention the claimant's job or his job duties.

¶ 22 During his evidence deposition, Dr. Adair opined that the claimant's osteoarthritis could have been aggravated and rendered symptomatic by the claimant's work activities. He based this causation upon a hypothetical presented by the claimant's attorney. During his direct examination of Dr. Adair, the claimant's counsel made the following statement to Dr. Adair:

"For purposes of your testimony here today, I'm going to ask you to assume that \*\*\* [a]s part of his job duties, [the claimant] is required to push 2000 pound rolls of what will become newspaper about 40 times per day, and he has to load it into a certain machine. He has to continuously climb up and down ladders. He has to continuously climb in and around the structure of the press machine itself, which would include him stepping up and down off 20-inch gaps of space at certain times. And also that he would have to be up and down on his knees, oftentimes in

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<sup>2</sup> The claimant underwent right hip replacement surgery on January 23, 2008.

tight-quartered situations, perhaps 20 to 30 times per day. \*\*\* I'm going to ask you to assume those facts; that he'll testify to those particular work activities."

When asking Dr. Adair if he had formed an opinion as to causation, the claimant's counsel reminded him to "base your opinions upon the \*\*\* hypothetical information that I provided to you concerning what [the claimant] will testify to as being his work activities." Dr. Adair then testified that the job activities described by the claimant's counsel would be a "continuous microtrauma" that could "certainly increase the rate of degeneration of articular cartilage," thereby causing his symptoms to increase and accelerate.

¶ 23 In sum, Dr. Adair concluded that the work activities described in the claimant's counsel's hypothetical could have accelerated the degenerative arthritic condition in the claimant's right hip, which resulted in the need for a right hip replacement. He also opined that the work activities described in the hypothetical would aggravate or accelerate the degenerative changes in the claimant's left hip and that any "weight-bearing activities" would increase the rate of degeneration in the claimant's arthritic knees.

¶ 24 Dr. Adair testified that it was "unlikely" that the claimant would ever be able to return to work as a pressman. He also testified that he believed the claimant will likely need a left hip replacement and knee replacements in the future.

¶ 25 On cross-examination, Dr. Adair admitted that: (1) the claimant had never told him any details regarding his specific job duties; (2) he did not "have a clue" what the claimant does and what his job duties look like, other than what the claimant's counsel told him to assume; (3) he did not know how many hours per day the claimant would

engage in physical activity while working; and (4) he did not know to what extent the claimant performed one particular task versus other job-related tasks while at work. Dr. Adair also admitted that, if he were provided with a different job description or different facts, he might change his causation opinion.

¶ 26 Dr. G. Klaud Miller, an orthopedic surgeon, examined the claimant on the employer's behalf pursuant to Section 12 of the Act. Dr. Miller questioned the claimant about his job activities and reviewed the medical records of the claimant's treaters and surgeons, the results of all radiologic tests performed on the claimant, and the videotape prepared by the employer. After conducting this review, Dr. Miller prepared a report in which he concluded that the claimant's hip problems were "conclusively unrelated to his job" and that there was "absolutely no evidence of any aggravation of his clearly pre-existing degenerative knee conditions by any of his work related episodes." In reaching this conclusion, Dr. Miller relied on the facts that: (1) the claimant's hip problems dated back to 1995 and the claimant did not relate any history of traumatic injury to his hips; (2) the arthroscopies performed on the claimant's knees prior to November 2004 showed "clearly pre-existing degenerative conditions" and no evidence of traumatic injury. Dr. Miller concluded that the claimant's need for medical treatment for his knees and hips was due entirely to the natural progression of his underlying osteoarthritis and not to his work activities.

¶ 27 Dr. Miller opined that the kneeling, squatting, crawling, and bending that the defendant did at work for approximately one to one and a half hours per day did not cause or aggravate his degenerative joint disease. Dr. Miller drew a distinction between an

activity which causes pain and an activity which aggravates or accelerates a pathological condition. Although he conceded that the activities required for the claimant's job would certainly be painful for someone with an arthritic joint, he noted that "there is absolutely no scientific evidence to support the statement that any of these activities cause, aggravate, or accelerate[] a degenerative condition." He analogized the claimant's work activities to touching sunburned skin, a painful activity that does not cause any damage.

¶ 28 Dr. Miller made the same point during his evidence deposition. When asked whether the claimant's work activities could have aggravated his osteoarthritis, Dr. Miller responded:

"It depends on your definition of the term 'aggravation.' Could it have aggravated symptoms? Sure. Would it have caused or aggravated the underlying problem? Certainly not."

Dr. Miller further explained that, if a person has an arthritic knee, it hurts to walk, squat, kneel, and stand for long periods of time, but these activities do not cause arthritis.

Dr. Miller also noted that other activities of daily life which are not work-related, such as walking, climbing stairs, or picking things up from the floor, would also cause someone with an arthritic joint to feel pain "because arthritic joints are painful." However, none of these activities cause arthritis. He also opined that the pain that the claimant may have experienced while performing his job duties would tend to improve when the claimant stops performing those activities.

¶ 29 Dr. Miller also testified that osteoarthritis can be caused by several different things and that the claimant's osteoarthritis was probably caused by his "genetic make-

up." He also noted that the defendant's weight was a risk factor for the development of osteoarthritis in his knees.

¶ 30 During the arbitration hearing, the claimant conceded that he had complained of pain in his hips and knees from 2000 to August 2006. However, he noted that he continued to perform his job as a pressman during that time period. He did not lose any time from work during that period except for periods related to his knee surgery, which were a period of three months and then six to eight weeks. He stated that, during that period from 2000 to August 2006, "[t]here had been times when \*\*\* my problem with my hip and knees ha[d] kind of flared up and I would be off for a few days and with medication I would be okay and get back to work." However, he testified that he did not miss any significant or lengthy times off of work and that no doctor ever told him not to perform his job from 2000 to 2006. Until August 2007, the claimant believed that he was able to do his work "at 100%."

¶ 31 The claimant testified that, in his present condition, his knees give him a lot of problems. He stated that he can be on his feet only a couple of hours a day. He testified that he believes he will need knee replacement surgery for both knees in the future. The claimant was terminated on October 2008.

¶ 32 Michael Kreppert, the employer's production manager, testified on the employer's behalf. Kreppert testified that the claimant was a good employee who worked very hard and who seldom missed days of work prior to October 2007. Kreppert testified that the maintenance work, which included lifting the rollers and crawling in and out of the units, was done on the day shift. He stated that, on the night shift, the primary job

was to get the paper out. Kreppert testified that the activities shown on the videotape reflected the work performed on the day shift.

¶ 33 The arbitrator found that the defendant had proven accident and causation and awarded TTD benefits, medical expenses, and prospective medical care. The arbitrator changed the date of the claimant's accident *sua sponte* from August 15, 2007 (the date alleged in the claimant's "Application for Adjustment of Claim"), to October 19, 2007 (the last day that the claimant worked for the employer). In finding causation, the arbitrator relied upon: (1) the medical records, which, according to the arbitrator, "indicate[d] that the claimant's complaints of hip pain significantly increased in August 2007"; (2) Dr. Adair's opinion that the claimant's work activities accelerated the degenerative arthritic conditions in the claimant's hips and knees; and (3) Dr. Miller's concession that the claimant's work activities could have "aggravated [his] symptoms."

¶ 34 The employer appealed the arbitrator's decision to the Commission. After reviewing the record, the Commission reversed the arbitrator's decision.<sup>3</sup> The

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<sup>3</sup> The Commission's written opinion was signed by Commissioners Sherman and Lamborn. Commissioner DeMunno filed a special concurring opinion which noted that oral arguments in the case were heard by Commissioners Sherman, Lamborn, and Rink but that Commissioner Rink had left the Commission before the written decision was issued. Prior to Commissioner Rink's departure, however, a majority of the panel members had reached agreement as to the result set forth in the written opinion. Although he did not hear oral arguments or participate in the agreement reached by the majority, Commissioner DeMunno signed the decision so that it could issue, as authorized by *Ziegler v. Industrial Comm'n*, 51 Ill.

Commission found that the claimant had failed to prove that he sustained accidental injuries arising out of and in the course of his employment and that his condition was causally related to his employment duties. The Commission found that "the greater part of [the claimant's] work duties was not sufficiently repetitive as to cause repetitive trauma in his hips and knees." It noted that, with the exception of the last two years of his employment the claimant worked on the night shift. Although the Commission acknowledged that the claimant's work duties "may have been strenuous, awkward, and demanding physically at times," it found that the claimant had "failed to show that [the] work duties performed for the overwhelming majority of his tenure with [employer] were sufficient to cause repetitive trauma to his hips and knees."

¶ 35 The Commission also found it significant that the claimant's medical records reflected a "long history of symptomatology," including complaints of hip pain as early as 2000, hip and knee pain in 2003, and severe, debilitating pain in August 2006 which made it difficult for the claimant to move around, walk up and down stairs, or bend over to put on his socks or tie his shoes. The Commission also noted that the August 2006 hip x-ray showed "significant age-related degenerative changes," and that the "symptoms related to [the claimant's] degenerative \*\*\* osteoarthritis existed long before he started working on the day shift."

¶ 36 The Commission did not find Dr. Adair's causation opinions persuasive because they were based on a hypothetical provided by the claimant's counsel that was "wholly

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2d 342 (1972).

inconsistent with [the claimant's] testimony." The Commission found that "[i]t is evident that Dr. Adair was not aware of [the claimant's] job duties."

¶ 37 Having found that the claimant failed to prove accident and causation, the Commission found all of the other issues raised by the claimant (*e.g.*, whether the claimant was entitled to TTD benefits, medical expenses, and prospective medical treatment) to be moot.

¶ 38 The claimant appealed the Commission's decision to the circuit court of Sangamon County, which confirmed the Commission's decision. The circuit court found that, although the claimant's job duties "could be physically strenuous at times," "they were not truly repetitive." The court cited our decision in *Williams v. Industrial Commission*, 244 Ill. App. 3d 204 (1993), which affirmed the denial of benefits where the claimant could not prove that he performed a repetitive job task on a daily basis.

¶ 39 The circuit court also held that the claimant failed to prove any causal connection between his job duties and his need for surgery. The court found that "the hypothetical question addressed to Dr. Adair concerning the [claimant's] job duties was not accurate and did not conform to the claimant's own testimony as to what he did every day at work." The court also noted that the evidence was undisputed that the claimant's underlying arthritis was "severe, advanced, and had been causing him a lot of symptoms for years before he ever sought workers' compensation benefits." Noting that it is the Commission's province to resolve conflicts in the evidence, weigh the evidence, and choose from conflicting inferences, the court held that the Commission's decision was not against the manifest weight of the evidence. This appeal followed.

¶ 40

## ANALYSIS

¶ 41

### 1. Accident

¶ 42 As noted above, the Commission found that the claimant failed to establish a work-related accident because his work activities were not sufficiently repetitive to support recovery under a repetitive trauma theory. The claimant argues that this finding was against the manifest weight of the evidence. We disagree.

¶ 43 As the claimant concedes, in order to establish an accident under a repetitive trauma theory, a claimant must prove that he performed the same work task repetitively on a daily basis. See, e.g., *Williams*, 244 Ill. App. 3d at 211. In this case, the claimant argues that the work activities that he performed during the day shift caused a repetitive trauma. However, some of these work activities were not performed on a daily basis. For example, the claimant testified that he was required to change and clean the ink rollers "maybe 1 or two days a week" for approximately three or four hours each of those days. Moreover, the tasks that the claimant did perform on a daily basis were not unduly repetitive. Specifically, the claimant testified that, while greasing the printing press, he had to climb up and down ladders for approximately an hour. He admitted that the amount of climbing he did during a typical shift depended upon the maintenance that he was doing and that it was hard to specify how long he spent doing any one activity. As the claimant noted, "[i]t is not like [he was] sitting on an assembly line doing this all day." In addition, although the claimant testified that he was required to kneel, squat, or bend "for probably a good couple of hours a day" while cleaning the presses and that he had to clean the rails two or three times per day, this does not establish that the claimant's job activities were sufficiently repetitive. See *Williams*, 244 Ill. App. 3d 204, 211 (affirming Commission's finding

that the claimant had failed to prove an accident arising out of his employment under a repetitive trauma theory even though the claimant testified that he climbed on top of a crane five or six times per day, crawled under machinery for two to three hours per day on a daily or weekly basis, used various sledgehammers for two or three hours per day on a daily basis, and spent 30% of his time during each shift lifting heavy objects).

¶ 44 The claimant argues that the videotape, which the employer introduced as evidence of the work activities performed by pressmen working the day shift, established that the claimant's job involved repetitive climbing, kneeling, squatting, pushing, pulling, and other awkward physical movements. However, the videotape shows various employees performing eight or nine different work activities for one to two minutes each. It does not purport to show or establish the amount of time that the claimant was required to perform any of the work activities depicted. Thus, the Commission properly relied upon the claimant's own testimony to establish those facts, and it was not against the manifest weight of the evidence for the Commission to conclude that the claimant's testimony failed to establish that his job duties were sufficiently repetitive. Dr. Miller's testimony that the claimant's work activities did not cause or aggravate the claimant's underlying osteoarthritis lent further support to the Commission's decision.

¶ 45 The claimant cites our decision in *Edward Hines Precision Components v. Industrial Comm'n*, 356 Ill. App. 3d 186, 193-94 (2005), for the proposition that "there is no legal requirement that a certain percentage of the workday be spent on a task in order to support a finding of repetitive trauma." While that is certainly true, it does not support the claimant's position in this case. In *Edward Hines*, we affirmed the Commission's finding that the claimant's carpal tunnel syndrome was caused by work-related repetitive trauma. In so holding, we rejected

the employer's argument that the claimant failed to prove that he suffered repetitive trauma from work because the claimant spent less than 10% of his workday tying down loads. It was in that context that we made the statement cited by the claimant. Thus, our decision in *Edward Hines* merely confirms that the question of whether a claimant's work activities are sufficiently repetitive must be decided on a case by case basis upon the particular facts presented in each case and that it is the Commission's province to resolve this factual issue. Thus, our decision in *Edward Hines* is entirely consistent with our decision in *Williams*. As in *Williams*, the Commission in this case considered the evidence and properly determined that the claimant's work activities were not sufficiently repetitive to establish a compensable accident under a repetitive trauma theory. That determination was not against the manifest weight of the evidence.

¶ 46 The claimant also argues that Cheryl Parkinson, the employer's benefits coordinator, stated in an online insurance claim form that the claimant was injured while performing his work duties and that his injury was caused by the "Stress of Repetitive Motion" and by "Repetitive movements of walking, climbing, crawling, bending through press units over the past 24 years." Moreover, in the short term disability claim information form that she later prepared for the claimant, Parkinson classified the claimant's occupation as "heavy" and indicated that the claimant's injury was due to "an injury or sickness arising out of his job." The claimant suggests that these statements are "admissions by [the employer's] own agent" which "show that the [claimant] did do repetitive heavy work that resulted in [his] injury." We disagree.

¶ 47 In repetitive trauma cases, the claimant must present medical testimony establishing a causal connection between the work performed and claimant's disability. *Nunn v. Illinois*

*Industrial Comm'n*, 157 Ill. App. 3d 470, 477 (1987); see also *Johnson v. Industrial Comm'n*, 89 Ill. 2d 438, 442-43 (1982). Parkinson was not qualified to render an expert medical opinion as to whether the claimant's job activities could have caused a repetitive trauma, and her statements are contradicted by Dr. Miller's expert opinion. Moreover, Parkinson's statements contradict the claimant's own argument because Parkinson stated that the claimant's injury was caused by repetitive work activities that the claimant performed "over the past 24 years," which would include the 22 years that the claimant worked only the night shift. The claimant, by contrast, argues that his repetitive trauma was caused entirely by the work activities he performed on the day shift during the final two years of his employment. As noted above, the claimant's testimony regarding the tasks he performed while working the day shift do not necessarily support a repetitive trauma claim. For all these reasons, the Commission was entitled to disregard Parkinson's statements.

¶ 48

## 2. Causation

¶ 49 The claimant argues that the Commission's finding that he failed to prove a causal relationship between his work activities and his current hip and knee conditions was against the manifest weight of the evidence. The claimant's argument lacks merit. To obtain compensation under the Act, a claimant must prove that some act or phase of his employment was a causative factor in his ensuing injuries. *Land and Lakes Co. v. Industrial Comm'n*, 359 Ill. App. 3d 582, 592 (2005). A work-related injury need not be the sole or principal causative factor, as long as it was a causative factor in the resulting condition of ill-being. *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 205 (2003). Thus, even if the claimant had a preexisting degenerative condition which made him more vulnerable to injury, recovery for an accidental injury will not be denied

as long as he can show that his employment was also a causative factor. *Sisbro*, 207 Ill. 2d at 205; *Swartz v. Illinois Industrial Comm'n*, 359 Ill. App. 3d 1083, 1086 (2005). A claimant may establish a causal connection in such cases if he can show that a work-related injury played a role in aggravating his preexisting condition. *Mason & Dixon Lines, Inc. v. Industrial Comm'n*, 99 Ill. 2d 174, 181 (1983); *Azzarelli Construction Co. v. Industrial Comm'n*, 84 Ill. 2d 262, 266 (1981); *Swartz*, 359 Ill. App. 3d at 1086.

¶ 50 An employee who alleges injury based on repetitive trauma must "show[] that the injury is work related and not the result of a normal degenerative aging process." *Peoria County Belwood Nursing Home v. Industrial Comm'n*, 115 Ill. 2d 524, 530 (1987); *Edward Hines Precision Components*, 356 Ill. App. 3d at 194. In repetitive trauma cases, the claimant "generally relies on medical testimony establishing a causal connection between the work performed and claimant's disability." *Nunn*, 157 Ill. App. 3d at 477; see also *Johnson*, 89 Ill. 2d at 442-43.<sup>4</sup> Thus, repetitive trauma claims involving the alleged aggravation of a preexisting condition, like the claim asserted here, cannot succeed unless the claimant presents medical testimony suggesting that: (1) he had a preexisting condition that was or could have been

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<sup>4</sup> Although medical testimony as to causation is not required in every workers' compensation case, where the question is one within the knowledge of experts only and not within the common knowledge of laypersons, "expert testimony is necessary to show that claimant's work activities caused the condition complained of." *Nunn*, 157 Ill. App. 3d at 478; see also *Johnson*, 89 Ill. 2d at 442-43. "Cases involving aggravation of a preexisting condition primarily concern medical questions and not legal questions, [citation]" and "[t]his is especially true in repetitive trauma cases." *Nunn*, 157 Ill. App. 3d at 478.

aggravated by his repetitive work activities; and (2) his current condition of ill-being was or could have been caused (at least in part) by this work-related trauma and is not simply the result of a normal, degenerative aging process.

¶ 51 Whether an accident aggravated or accelerated a preexisting condition is a factual question to be decided by the Commission. *Sisbro*, 207 Ill. 2d at 206. In resolving disputed issues of fact, including issues related to causation, it is the Commission's province to assess the credibility of witnesses, draw reasonable inferences from the evidence, determine what weight to give testimony, and resolve conflicts in the evidence, particularly medical opinion evidence. *Hosteny v. Illinois Workers' Compensation Comm'n*, 397 Ill. App. 3d 665, 675 (2009); *Fickas v. Industrial Comm'n*, 308 Ill. App. 3d 1037, 1041 (1999). We will overturn the Commission's causation finding only when it is against the manifest weight of the evidence. A factual finding is against the manifest weight of the evidence if the opposite conclusion is "clearly apparent." *Swartz*, 359 Ill. App. 3d at 1086. The test is whether the evidence is sufficient to support the Commission's finding, not whether this court or any other tribunal might reach an opposite conclusion. *Pietrzak v. Industrial Comm'n*, 329 Ill. App. 3d 828, 833 (2002).

¶ 52 Applying these standards, we cannot say that the Commission's conclusion that the claimant failed to establish causation is against the manifest weight of the evidence. After examining and interviewing the claimant, reviewing the videotape, and reviewing the claimant's medical records (including all of the radiologic test results), Dr. Miller opined that the claimant's hip and knee problems were unrelated to his job and that his work activities did not aggravate or accelerate his preexisting degenerative osteoarthritis. Dr. Miller noted that the medical records established that the claimant had preexisting degenerative arthritic conditions in his hips and

knees and a history of hip and knee pain before he began working the day shift and that there was no evidence of a traumatic injury. Although Dr. Miller acknowledged that the claimant experienced pain while performing his job duties due to his preexisting osteoarthritis, he noted that the claimant would also experience pain while performing non-work-related daily activities like walking and climbing stairs.

¶ 53 Although Dr. Adair reached a different conclusion, it is the Commission's province to weigh medical testimony and to resolve conflicts in medical opinion testimony. *Hosteny*, 397 Ill. App. 3d at 675. Moreover, Dr. Adair's opinion was based upon a hypothetical presented by the claimant's counsel which required Dr. Adair to assume facts about the claimant's work activities that were not borne out by the claimant's testimony. For example, the claimant's counsel asked Dr. Adair to assume that the claimant was "required to push 2000 pound rolls of what will become newspaper about 40 times per day" and that the claimant "would have to be up and down on his knees, oftentimes in tight-quartered situations, perhaps 20 to 30 times per day." Neither the claimant's testimony nor any other record evidence establishes that the claimant performed any such activities, at least not with the frequency or regularity asserted by the claimant's counsel. Further, Dr. Adair testified that: (1) he did not "have a clue" what the claimant does and what his job duties look like, other than what the claimant's counsel told him to assume; (2) he did not know how many hours per day the claimant would engage in physical activity while working; (3) he did not know to what extent the claimant performed one particular task versus other job-related tasks while at work; and (4) if he were provided with a different job description or different facts, he might change his causation opinion. For all these reasons, the Commission

was entitled to credit Dr. Miller's opinion over Dr. Adair's, and the Commission's causation finding was not against the manifest weight of the evidence.

¶ 54 The claimant argues that, even though his testimony did not establish all elements of the hypothetical that his counsel presented to Dr. Adair, the videotape established several of those elements, thereby supporting Dr. Adair's causation opinion. We disagree. First, the videotape does not establish how often or for how long each day the claimant performed the activities depicted in the video. Second, the video does not support Dr. Adair's causation opinion because there is no evidence that Dr. Adair ever reviewed the video or considered it in rendering his opinion. In any event, even if the video did somehow support Dr. Adair's causation opinion, that would not change the fact that Dr. Adair's opinion was contradicted by Dr. Miller's opinion.<sup>5</sup> As noted, the resolution of this conflict was a matter for the Commission.

¶ 55 The claimant makes much of the fact that Dr. Miller stated on direct and cross-examination that the claimant's work activities could have "aggravated his symptoms." However, when those statements are read in context, it is clear that Dr. Miller was merely stating that the claimant would experience pain while performing his work duties due to his preexisting osteoarthritis. Dr. Miller drew a distinction between an activity which *causes pain* and an activity which *aggravates or accelerates a preexisting pathological condition*. Although he conceded that the claimant's job activities would certainly be painful for someone with an arthritic joint, he noted that "there is absolutely no scientific evidence to support the statement that any of these activities cause, aggravate, or accelerate[] a degenerative condition." He

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<sup>5</sup> Unlike Dr. Adair, Dr. Miller reviewed the videotape before rendering his opinion.

analogized the claimant's work activities to touching sunburned skin, a painful activity that does not cause any damage.

¶ 56 Accordingly, contrary to the claimant's suggestion, Dr. Miller did not testify that the claimant's work activities aggravated his osteoarthritis, thereby rendering it symptomatic. To the contrary, Dr. Miller repeatedly noted in his report that the claimant's osteoarthritis had been symptomatic (*i.e.*, painful) long before the claimant began working the day shift. Dr. Miller merely testified that the claimant would feel pain when performing his work activities because his preexisting osteoarthritis had already progressed to a certain level, not because the work activities themselves somehow contributed to the progression of the osteoarthritis or to the development of symptoms. Thus, when Dr. Miller stated that the claimant's work activities "aggravated" his symptoms, it appears that he meant that the work activities (as well as other non-work-related activities of daily life) *triggered* pain which was ultimately caused by the underlying disease; he did not mean that the claimant's work activities rendered the underlying disease symptomatic or made the pain symptoms worse than they otherwise would have been.

¶ 57 Because we affirm the Commission's finding that the claimant failed to establish accident and causation, we need not address the remaining issues raised by the claimant (*i.e.*, whether the claimant established that he was entitled to TTD benefits, medical expenses, and prospective medical treatment).

¶ 58 CONCLUSION

¶ 59 For the foregoing reasons, we affirm the judgment of the Sangamon County circuit court, which confirmed the Commission's decision.

¶ 60 Affirmed.