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IN THE APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

ILLINOIS SCHOOL OF HEALTH,)	Appeal from
Plaintiff-Appellant,)	Circuit Court of
v.)	Cook County
WORKERS' COMPENSATION COMMISSION)	Nos. 11L50178
OF ILLINOIS and ANGELA ALDREDGE,)	11L50193
Defendants-Appellees.)	
)	Honorable
)	Robert Lopez-Cepero,
)	Judge Presiding.

JUSTICE APPLETON delivered the judgment of the court.
Justices Hoffman, Holdridge, Hudson, and Stewart concurred in the judgment.

ORDER

- ¶ 1 *Held:* The Commission's finding that claimant failed to prove her right knee condition was causally related to her work accident on September 1, 2009, was not against the manifest weight of the evidence.
- ¶ 2 On September 24, 2009, claimant, Angela Aldredge, filed an application for adjustment of claim pursuant to the Workers' Compensation Act (820 ILCS 305/1 to 30 (West 2008)), seeking benefits from employer, Illinois School of Health, for injuries she suffered to her right knee and foot on September 1, 2009.
- ¶ 3 After a hearing, an arbitrator found claimant proved she sustained injuries to her right

ankle, calf, and knee arising out of and in the course of her employment with employer on September 1, 2009. The arbitrator awarded claimant total temporary disability (TTD) benefits for a period of 17 weeks; and prospective medical and surgical care as prescribed by Dr. Preston Wolin.

¶ 4 Employer filed a petition for review of the arbitrator's decision before the Illinois Workers' Compensation Commission (Commission). On review, a majority of the Commission modified and clarified the arbitrator's decision finding claimant sustained only a gastrocnemius tear arising out of and in the course of her employment with employer on September 1, 2009. Accordingly, the Commission awarded claimant TTD benefits for a period of eight weeks and vacated the arbitrator's award of prospective medical and surgical care as prescribed by Dr. Wolin. The Commission affirmed and adopted the arbitrator's decision in all other respects.

¶ 5 Thereafter, both claimant and employer filed petitions seeking judicial review in the circuit court of Cook County. The court reversed, in part, the Commission's decision, finding claimant's right knee injury was causally related to the work accident on September 1, 2009.

¶ 6 Employer appeals, arguing the Commission's finding that claimant failed to prove her right knee condition was causally related to her work accident on September 1, 2009, was not against the manifest weight of the evidence. For the reasons that follow, we reverse that portion of the circuit court's judgment reversing the Commission's decision and reinstate the Commission's decision. In all other respects, we affirm the circuit court's judgment.

¶ 7 The following factual recitation is taken from the evidence presented at the arbitration hearing on January 8, 2010, and January 12, 2010. The 39-year-old claimant testified she had been employed by employer as a teacher for approximately one month. On September 1, 2009, claimant left the school building to meet a restaurant delivery person. Claimant testified that while

approaching the curb outside the building, she encountered a sidewalk irregularity and fell on her right leg. The delivery person helped claimant upstairs to her classroom.

¶ 8 Student Tina Swopes testified that claimant returned to the classroom limping. Student Leslie Valero testified that claimant told the students she slipped or fell off the curb. Claimant secured an ice bag and elevated her leg. Claimant provided lunch for the students following their final exam. After the students finished their lunch, Valero drove claimant in claimant's car to Advocate Medical Group-Bridgeport (Advocate). Valero parked the car in front of the clinic and left immediately.

¶ 9 Criselda Del Rosario testified that she is an instructor for employer. She is a medical doctor licensed to practice medicine in the Philippines. Del Rosario came to claimant's room while claimant and her students were having lunch. Claimant's leg was elevated in a chair and Del Rosario observed the leg was swollen. Del Rosario recommended claimant go to the emergency room.

¶ 10 Advocate records show claimant treated at approximately 12:51 p.m., on September 1, 2009. The notes of that visit state claimant complained of right leg pain after tripping on the sidewalk and also state claimant presented with right calf pain after stepping off the curb. Claimant did not appear to be in acute distress. X-rays of the right foot and ankle were negative for fractures or dislocations. The attending physician diagnosed claimant with a gastrocnemius strain and prescribed Vicodin.

¶ 11 Claimant testified she returned to work on September 2, 2009, using crutches.

¶ 12 Advocate records next show claimant telephoned Advocate on September 3, 2009, stating that she was standing in her kitchen on the evening of September 2, 2009, when her knee gave out and she popped it back into place. Advocate referred claimant to the emergency room.

¶ 13 Claimant presented to Mercy Hospital and Medical Center emergency room (Mercy) on September 3, 2009. She complained of severe right leg and right knee pain after stepping off a curb the day before (September 2, 2009). She was unable to bear weight on her right knee. Claimant reported that on the day of her emergency room treatment (September 3, 2009), her foot was planted on the ground and she turned her body to the side, twisting her knee in the process. Her kneecap dislocated laterally and she fell to the ground. After about 20 minutes, she was able to gradually relocate the kneecap and noted significant swelling of the knee and severe pain.

¶ 14 Claimant underwent x-rays of the right knee. Claimant complained of right knee pain after stepping off a curb awkwardly. There was no fracture or dislocation of the knee, tibia, or fibula. The attending physician diagnosed claimant with unspecified internal derangement of knee and strain of knee and leg. Claimant was referred to Midland Orthopedic Associates.

¶ 15 Advocate records show claimant telephoned Advocate again on September 3, 2009, following treatment at Mercy, stating she had been diagnosed with a gastrocnemius strain and an Achilles tendon tear.

¶ 16 Claimant next sought treatment with board certified neurologist, Dr. Edward Herba, on September 15, 2009. The notes of that visit state the following:

"This is a new patient evaluation. This patient was preparing food service for a work-related instructional program one evening, on 09/01/09. In an attempt to help unload the van which provided the food, she walked out and fell over the edge of the curb, and in doing so she severely injured the right knee and the right ankle. In fact, she felt that the patella was dislodged such that it was positioned laterally over the

right knee. She also had severe pain and swelling of the entire right knee and also developed pain and swelling at the right ankle and this extended proximally along the calf muscle and also at the Achilles tendon. She developed no back pain but she has much pain at the right knee and along the right leg. She has not had any past history of similar involvement of the knee nor of the ankle."

¶ 17 Dr. Herba requested a magnetic resonance imaging (MRI) of the right knee, calf, and ankle, and referred claimant to orthopedics. Claimant was taken off work.

¶ 18 On September 16, 2009, the MRI of claimant's right knee, calf, and ankle revealed bone marrow edema in the right knee, a tear of the medial meniscus, mild insertional tendinitis and plantar fasciitis, small tibial tear, and strain of the medial gastrocnemius.

¶ 19 On September 18, 2009, claimant sought treatment with orthopedist, Dr. Henry Fuentes. He recommended a knee immobilizer and physical therapy. Claimant insisted on having a surgical procedure. Dr. Fuentes advised claimant that surgery is usually not required for her problem unless claimant failed conservative therapy. Claimant stated she would seek a second opinion.

¶ 20 On September 24, 2009, claimant returned to Dr. Herba. Claimant complained of pain at the calf but less than her first visit to Dr. Herba, approximately 10 days earlier. Claimant requested Norco and Naprosyn.

¶ 21 On September 30, 2009, claimant sought treatment with orthopaedic surgeon Dr. Wolin. The notes of that visit state claimant sustained an injury to her right knee on September 1, 2009. "She was at work getting some deliveries *** when she stepped off a curb at a spot where the

curb is broken ***." Claimant reported feeling a pop on her calf, followed by a lateral dislocation of her right patella. The patella immediately self reduced. Later that night, her knee felt unstable and she fell, dislocating her patella. Claimant reported a third dislocation at home the following night.

¶ 22 Dr. Wolin recommended a computerized tomography (CT) scan of the right knee and physical therapy. He stated claimant was unable to work. The CT scan revealed no acute or subacute fracture deformities. Claimant returned to Dr. Wolin on October 27, 2009. Claimant complained of a recurrence of the patella dislocating. Dr. Wolin injected the knee and advised continued therapy with claimant to remain off from work. There were seven therapy sessions from November 6, 2009, through November 23, 2009. On December 9, 2009, Dr. Wolin recommended knee surgery.

¶ 23 Employer introduced medical records of a prior injury to the right knee and ankle on December 12, 2004. Claimant underwent a closed reduction for a dislocated patella followed by therapy. On February 21, 2005, the orthopaedic surgeon noted full range of motion in the knee and normal patellar mobility without apprehension.

¶ 24 After the hearing, the arbitrator found claimant proved she sustained injuries to her right ankle, calf, and knee arising out of and in the course of her employment with employer on September 1, 2009. The arbitrator awarded claimant TTD benefits for a period of 17 weeks, from September 16, 2009, through January 12, 2010; and prospective medical and surgical care as prescribed by Dr. Wolin.

¶ 25 Employer filed a petition for review of the arbitrator's decision before the Commission. On review, a majority of the Commission modified and clarified the arbitrator's decision finding

claimant sustained only a gastrocnemius tear arising out of and in the course of her employment with employer on September 1, 2009. The Commission awarded claimant TTD benefits for a period of eight weeks, from September 2, 2009, through October 27, 2009, the time during which claimant was treated for the gastrocnemius tear of her right calf muscle and was unable to work. The Commission vacated the arbitrator's award of TTD benefits from October 28, 2009, through January 12, 2010; and prospective medical and surgical care as prescribed by Dr. Wolin. The Commission affirmed and adopted the arbitrator's decision in all other respects.

¶ 26 The dissenting commissioner opined that claimant did not suffer a compensable accident, stating that the act of stepping off a curb does not expose an employee to a risk greater than that faced by the general public.

¶ 27 Thereafter, both claimant and employer filed petitions seeking judicial review in the circuit court of Cook County. On December 15, 2011, the court reversed, in part, the Commission's decision, finding claimant's right knee injury was causally related to the work accident on September 1, 2009.

¶ 28 This appeal followed.

¶ 29 Employer argues the Commission's finding that claimant failed to prove her right knee condition is causally related to her work accident on September 1, 2009, is not against the manifest weight of the evidence. We agree.

¶ 30 Whether a causal connection exists is a question of fact for the Commission, and a reviewing court will overturn the Commission's decision only if it is against the manifest weight of the evidence. *Navistar International Transportation Corp. v. Industrial Comm'n*, 331 Ill. App. 3d 405, 415, 771 N.E.2d 35, 44-45 (2002). In resolving questions of fact, it is the function of the

Commission to judge the credibility of the witnesses and resolve conflicting medical evidence. *O'Dette v. Industrial Comm'n*, 79 Ill. 2d 249, 253, 403 N.E.2d 221, 223-24 (1980). A factual finding by the Commission will not be set aside on review unless it is against the manifest weight of the evidence. *Orsini v. Industrial Comm'n*, 117 Ill. 2d 38, 44, 509 N.E.2d 1005, 1008 (1987). For a finding of fact to be against the manifest weight of the evidence, an opposite conclusion must be clearly apparent from the record on appeal. *University of Illinois v. Industrial Comm'n*, 365 Ill. App. 3d 906, 910, 851 N.E.2d 72, 77 (2006). If there is sufficient factual evidence in the record to support the Commission's determination, it will not be set aside on appeal. *Beattie v. Industrial Comm'n*, 276 Ill. App. 3d 446, 450, 657 N.E.2d 1196, 1199 (1995).

¶ 31 Here, the factual evidence presented at the arbitration hearing was sufficient to support the Commission's determination that claimant's right knee condition was not causally related to the September 1, 2009, work accident. As noted, claimant testified that while approaching the curb outside the school building, she encountered a sidewalk irregularity and fell on her right leg. The delivery person helped claimant upstairs to her classroom. Del Rosario observed claimant in her classroom with her leg elevated. Del Rosario testified claimant's leg was swollen.

¶ 32 Claimant treated with Advocate at approximately 12:51 p.m., on September 1, 2009. The notes of that visit state claimant complained of right leg pain after tripping on the sidewalk and also that claimant presented with right calf pain after stepping off the curb. Claimant did not complain of right knee pain. Claimant did not appear to be in acute distress. X-rays of the right foot and ankle were negative for fractures or dislocations. The attending physician diagnosed claimant with a gastrocnemius strain. Claimant testified she returned to work on September 2, 2009, using crutches.

¶ 33 Claimant first complained of right knee pain on September 3, 2009. She reported to Advocate that her knee gave out on the evening of September 2, 2009, and to Mercy that her knee gave out on September 3, 2009. Although she complained of severe right knee pain after stepping off a curb the day before (September 2, 2009), claimant did not complain of right knee pain when treated at Advocate on September 1, 2009, following her work accident. Further, claimant reported to Dr. Herba on September 15, 2009, and to Dr. Wolin on September 30, 2009, that her patella dislodged and laterally positioned over the right knee following her fall on September 1, 2009, and she experienced severe pain and swelling of the entire right knee.

Claimant's complaints to Drs. Herba and Wolin are not consistent with her complaints to Advocate on September 1, 2009, and are not consistent with the findings recorded by Advocate on September 1, 2009.

¶ 34 As stated above, it was the function of the Commission to judge the credibility of the witnesses, determine the weight to be given their testimony, and resolve conflicting medical evidence. *O'Dette*, 79 Ill. 2d at 253, 403 N.E.2d at 223-24. Based upon the record before us, the Commission's finding that claimant failed to prove her right knee condition is causally related to her work accident on September 1, 2009, is not against the manifest weight of the evidence.

¶ 35 For these reasons, we reverse that portion of the circuit court's judgment reversing the Commission's decision and reinstate the Commission's decision. In all other respects, we affirm the circuit court's judgment.

¶ 36 Circuit court's judgment affirmed in part and reversed in part; Commission decision reinstated.