

Workers' Compensation
Commission Division
Filed: April 22, 2013

No. 1-12-0979WC

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
FIRST JUDICIAL DISTRICT
WORKERS' COMPENSATION COMMISSION DIVISION

MORRISON SENIOR DINING,)	APPEAL FROM THE
)	CIRCUIT COURT OF
Appellant,)	COOK COUNTY
)	
v.)	No. 11 L 50767
)	
ILLINOIS WORKERS' COMPENSATION)	
COMMISSION, et al.,)	
(LOUISE DeYOUNG,)	HONORABLE
)	DANIEL GILLESPIE,
Appellee).)	JUDGE PRESIDING.

JUSTICE HOFFMAN delivered the judgment of the court.
Presiding Justice Holdridge and Justices Hudson, Harris, and Stewart concurred in the judgment.

ORDER

¶ 1 Held: The finding of the Illinois Workers' Compensation Commission that the claimant suffered an employment accident on January 14, 2007, which is causally connected to her condition of ill-being is not against the manifest weight of the evidence, nor is its award of medical expenses and temporary total disability benefits.

¶ 2 Morrison Senior Dining (Morrison) appeals from an order of the circuit court of Cook County which confirmed a decision of the Illinois Workers' Compensation Commission (Commission), awarding the claimant, Louise DeYoung, benefits pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 et seq. (West 2004)), for injuries she allegedly received while in its employ on January 14, 2007. For the reasons which follow, we affirm the

judgment of the circuit court and remand this matter to the Commission for further proceedings.

¶ 3 The claimant filed three applications for adjustment of claim pursuant to the Act, seeking benefits for injuries she allegedly received while in the employ of Morrison on October 17, 2005, December 6, 2006, and January 14, 2007. The claims were consolidated by the Commission for hearing. However, in this appeal, we are concerned only with the claim for benefits for the injuries the claimant allegedly sustained as a result of the accident on January 14, 2007. The following factual recitation is taken from the evidence presented at the consolidated arbitration hearing conducted on September 15, 2010.

¶ 4 The claimant testified that, during the relevant time periods, she was employed as a chef by Morrison. In that capacity, she prepared meals for approximately 200 people, and her job duties required her to perform a great deal of bending and to lift heavy items, including large pots and pans full of food. The claimant also stated that she had a history of treatment in 2002 and 2003 for back pain that extended to her left leg. The claimant stated that she underwent an MRI in January 2003 and was released to full duty in October 2003, and she did not receive any further treatment for her back until December 2006. The claimant testified that, from October 2003 to December 2006, she experienced some back pain, but she explained that it was nothing beyond the ordinary aches and pains that were associated with the bending and lifting required by her employment.

¶ 5 On December 6, 2006, the claimant suffered an aggravation of her back complaints. She was seen by her personal physician, Dr. Mary Tilak, on December 12, 2006, for complaints of lower back pain, which had begun six days earlier. Dr. Tilak's record of that visit did not include any mention of a work-related incident, and the claimant denied a specific injury. Dr. Tilak diagnosed a lumbar strain, and the claimant was treated with pain medication. The claimant testified that her back condition abated with the medication, and she was able to perform her duties without missing any time from work.

¶ 6 The claimant further testified that on January 14, 2007, she injured her back while lifting a large box of vegetables from a walk-in freezer. According to the claimant, she initially felt extreme pain in the lower right side of her back, and, within a few days, the pain extended to her buttocks and down her right leg. In the accident report, which was completed three days later, the claimant stated that, on January 15, 2007, she woke up with pain in her back as a result of lifting something on the previous day.

¶ 7 The claimant testified that, when she was seen by Dr. Tilak on January 23, 2007, she complained of back pain. Dr. Tilak's medical records indicate that the claimant was seen for chronic bronchitis. The records do not include any mention of back pain during that visit or any notation from the physical examination that the claimant had any musculoskeletal problems.

¶ 8 The claimant returned to Dr. Tilak on January 30, 2007, for a "follow-up" relating to her back pain. At that time, Dr. Tilak noted that the claimant had experienced recurrent back pain for the previous three years. Dr. Tilak assessed L-S radiculopathy, prescribed medication, and ordered an MRI of the claimant's lumbar spine. Dr. Tilak noted that the claimant's employment required her to lift and carry heavy cases, weighing more than 50 pounds, and that the claimant had been under her care for low-back pain since January 23, 2007.

¶ 9 The MRI was performed on February 7, 2007, and was interpreted to show degeneration and posterior annular tears at L4-L5 and at L5-S1, as well as impingement on the S1 nerve root. Dr. Tilak reviewed the MRI that day and referred the claimant to pain management.

¶ 10 The claimant began treating with Dr. Nitin Khanna on February 21, 2007. The claimant denied any previous back problems, and she complained of numbness and tingling in her right leg with some minimal back pain. There is no mention of any work incident in those records. Dr. Khanna reviewed the MRI and diagnosed the claimant with a herniated disc at L5-S1, with lower back pain and radiculopathy. He recommended further conservative treatment, including physical therapy, and returned the claimant to work in a light-duty capacity.

¶ 11 When the claimant returned to Dr. Khanna on March 21, 2007, he recommended epidural steroid injections and discussed the possibility of a microdiscectomy. According to the medical records, the claimant did not receive any treatment in April 2007.

¶ 12 At Morrison's request, the claimant was evaluated by Dr. Steven Mather, a board-certified orthopedic surgeon, on May 10, 2007. Dr. Mather testified that the claimant told him she was injured at work on January 14, 2007. She denied a specific incident, but merely stated that she experienced pain at work. She described the pain as being in her mid-central back, with radiation down her right leg. The claimant also told Dr. Mather about her back injury in 2003, but denied any back problems since that date. On examination, Dr. Mather found that the claimant had abnormal alignment and a positive straight leg raise. Dr. Mather diagnosed the claimant with an L5-S1 disc herniation that was related to her lifting injury on January 14, 2007. He also opined that a microdiscectomy would be appropriate and that epidural injections would not be beneficial.

¶ 13 The claimant began treating with Dr. Rizwan Arayan on May 17, 2007. At that time, the claimant reported that she originally had a back injury in 2003, but had not experienced pain until January 14, 2007, when she was lifting something heavy at work. The claimant complained of constant sharp pain across her back with dull pain in her right buttock, which radiated through her right leg. She also reported that, since her injury, she had been working on light duty. Dr. Arayan took the claimant off work and recommended a right S1 nerve root block.

¶ 14 A right S1 transforaminal injection with S1 selective nerve root block was performed on June 4, 2007. At her follow-up visit on June 14, 2007, the claimant reported no improvement as a result of the injection. Dr. Arayan then recommended an EMG of the right lower extremity.

¶ 15 The EMG was performed on June 22, 2007, and was interpreted to be suggestive but not definitive of chronic right S1 radiculopathy with no evidence of peripheral neuropathy or acute lumbar radiculopathy.

¶ 16 When the claimant returned to Dr. Arayan on July 6, 2007, she continued to complain of a dull ache in her lower back, with right buttock pain and occasional radiation. Dr. Arayan noted that she had new onset of intermittent pain in her left-lower extremity. He diagnosed lumbar radiculitis, multilevel annular tears, and lower back pain, and he recommended epidural steroid injections.

¶ 17 A right L5 nerve root block was performed on July 9, 2007. As of July 19, 2007, the claimant continued to complain of lower back pain, with bilateral radiation, right side more than left. Again, she reported that the epidural steroid injection resulted in no improvement.

¶ 18 Dr. Arayan referred the claimant to Dr. Thomas Hurley, who evaluated her on August 15, 2007. The claimant informed Dr. Hurley of her back injury in 2003 and stated that she injured herself in January 2007 while lifting a large container. She complained of pain in her lower back, with radiation through her right leg, and Dr. Hurley recommended that an MRI be performed.

¶ 19 On August 21, 2007, the claimant underwent an MRI of the lumbar spine, which was interpreted to show disc extrusions at L4-L5 and L5-S1, compressing the S1 nerve root and bilateral L5 nerve roots. On October 12, 2007, Dr. Arayan interpreted that MRI to show a disc herniation at right L5-S1, with degenerative changes. At the time of that examination, the claimant complained of lower back pain with only occasional radiation into the right leg.

¶ 20 On September 6, 2007, Dr. Hurley reviewed the claimant's MRI studies, including those performed in January 2003 and February 2007. According to Dr. Hurley, there was no significant change from the previous MRI studies, all of which showed degenerative changes at L4-L5 and L5-S1, as well as a possible small central disc herniation at L5-S1. He noted that, although the claimant's symptoms had become worse, there was no change in her spinal anatomy. Dr. Hurley recommended that the claimant undergo a discogram.

¶ 21 The claimant was reevaluated by Dr. Mather on November 8, 2007. On examination, the

claimant stood in normal alignment, and Dr. Mather noted that her straight-leg raise was positive at 70 degrees. During his deposition, Dr. Mather testified that, if there were a nerve root compression, the straight-leg raise would have been positive at 30 degrees. The claimant's ankle and leg reflexes were symmetric and normal, and he opined that there was no longer a S1 nerve root compression to any significant degree. The claimant also reported normal sensation at that time, but noted that she had some numbness with prolonged sitting. Dr. Mather further observed that the claimant no longer had pain across her low back with flexion and extension, which had been present during her previous examination. In Dr. Mather's opinion, the prior disc herniation had been reabsorbed. According to Dr. Mather, the L5 nerve root block was unnecessary because the L5 nerve root had nothing to do with the claimant's symptoms. Based on his examination and review of medical records, Dr. Mather opined that the claimant's current condition was due to a significant preexisting degenerative disc disease. He concluded that she had a disc herniation in January 2007 that had since been reabsorbed and had returned to her pre-injury condition.

¶ 22 In December 2007, the claimant continued treating with Dr. Arayan and underwent a discogram, which was interpreted to show discordant pain at L4-L5 and concordant pain at L5-S1. The claimant also underwent a CT, which was interpreted to show disc extravasation at L4-L5, with mild central stenosis, and right disc extravasation at L5-S1, with right disc protrusion. On February 1, 2008, Dr. Arayan observed that, six weeks earlier, Dr. Hurley did not recommend fusion surgery and suggested that the claimant get a second opinion.

¶ 23 The claimant was examined by Dr. Noam Stadlan on February 12, 2008. On that date, no history of an employment accident was noted. Dr. Stadlan recommended an injection at L5-S1 and opined that, if the injection was successful, she would be a good candidate for surgery. He noted, however, that if the claimant reported no improvement by March 25, 2008, he was unsure as to whether fusion surgery would be beneficial.

¶ 24 On April 2, 2008, the claimant underwent a third MRI of her lumbar spine, which was

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interpreted to show a posterior annular tear and small disc protrusion at L4-L5, as well as a small right disc protrusion at L5-S1. In May 2008, Dr. Stadlan determined that the claimant's MRI had not changed, and he again recommended an L5-S1 injection.

¶ 25 During the summer of 2008, the claimant was treated for an aneurysm, which was not related to her employment.

¶ 26 In a letter dated October 1, 2008, Dr. Stadlan expressed his opinion that there was a chance the claimant's condition would improve with fusion surgery. He also indicated that he was unable to render a "definite pronouncement" as to causal connection because he did not have all of the claimant's medical records for review.

¶ 27 On November 2, 2008, the claimant presented at the emergency room at Ingalls Memorial Hospital with complaints of severe low-back pain and numbness to her legs. An MRI of her lumbar spine showed herniated discs at L4-L5 and L5-S1. The claimant was diagnosed with acute exacerbation of chronic back pain, received a prescription for medication, and was advised to follow up with Dr. Stadlan.

¶ 28 On December 18, 2008, the claimant returned to Dr. Hurley and reported that her symptoms had gotten worse. She described a cold and burning feeling in her legs and feet, and Dr. Hurley assessed degeneration, lumbar/lumbosacral disc. Dr. Hurley continued the off-work order and recommended that she submit to a work-up by another neurosurgeon.

¶ 29 On January 23, 2009, the claimant was seen by Dr. David Rosania. She complained of lower-back pain and bilateral radiation. Dr. Rosania assessed a work-related injury with lumbosacral disc herniation and radiculitis with chronic-pain syndrome. Dr. Rosania felt that the EMG was unclear with regard to potential radiculopathy, and he ordered a repeat EMG. The EMG was performed on February 20, 2009, and it was interpreted to be suggestive but not definitive of chronic L5-S1 radiculopathy and suggestive of right tibial motor mononeuropathy. It was noted the right mononeuropathy was not present in the prior study. Dr. Rosania continued

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the off-work order and referred the claimant to Dr. Theodore Fisher for a spine consultation to determine whether she was a candidate for spine surgery.

¶ 30 On March 20, 2009, the claimant was evaluated by Dr. Theodore Fisher. The claimant reported that she had a previous back incident in 2003, but she had been pain free until January 2007. The claimant reported that in 2007, she was picking up an item from a large walk-in freezer when she experienced lower-back and right-leg pain. At the time of the examination, she stated the pain extended into both extremities. She noted that she had undergone three injections that had failed to help her. Dr. Fisher diagnosed the claimant with degenerative disc disease and a herniated disc at L5-S1, and he recommended surgery. In his addendum of April 1, 2009, Dr. Fisher noted that, based on the claimant's reported history that she was pain free until 2007, "her current state of ill-being is a direct result of the work accident in 2007."

¶ 31 The claimant continued to treat with Drs. Rosania and Fisher, and she ultimately underwent a fusion surgery on September 22, 2009. Her post-operative diagnosis was L4-L5 and L5-S1 degenerative disc disease and herniated disc.

¶ 32 Following her surgery, the claimant began physical therapy. As of October 30, 2009, her complaints of pain in her lower back and right leg were unchanged. On December 11, 2009, the claimant reported to Dr. Rosania that her bilateral radicular symptoms were more pronounced, and he noted sacroiliac dysfunction. The following week, the claimant told Dr. Fisher that her back felt good, though her lower extremity symptoms had increased. Dr. Fisher recommended a home-exercise program and lifted all of the claimant's work restrictions. On January 8, 2010, the claimant reported that her lower-back pain had decreased and she had only intermittent radicular symptoms.

¶ 33 The claimant was next seen by Dr. Fisher on March 5, 2010. During that visit, she complained of pain in the S1/S2 area, and Dr. Fisher observed that she had a normal gait. However, because he was concerned about a possible loose screw, he took the claimant off work

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and recommended a CT. On March 12, 2010, the claimant reported that she had increased pain after falling on the ice within the previous three weeks.

¶ 34 Dr. Rosania evaluated the claimant on May 10, 2010, and found that she had decreased pain and complained of only occasional numbness and tingling in both feet. The claimant continued treating with Dr. Rosania throughout the summer of 2010.

¶ 35 A lumbosacral myelogram was performed on August 6, 2010, and was interpreted to show lumbosacral polyradiculopathy greatest at L5-S1, right greater than left. The post-myelogram CT scan showed an intact fusion and the remainder of the study was noted to be unchanged from the previous study.

¶ 36 Dr. Fisher reviewed the CT scan on August 20, 2010, and advised that the claimant increase her exercise routine. He released her to work with restrictions of no bending or lifting over 15 pounds. The claimant testified that, as of the date of the arbitration hearing, she continued to experience pain across her lower back, as well problems with numbness in her feet. She cannot work or do housekeeping chores, and she cannot walk for long periods of time. As a result, she continued to take pain medication and to treat with Dr. Rosania.

¶ 37 Following the consolidated arbitration hearing, the arbitrator found that, with regard to the December 2006 claim, the claimant failed to provide Morrison with timely notice of the accident and, therefore, was not entitled to any benefits under the Act. With regard to the October 2005 claim, the arbitrator found that the claimant sustained accidental injuries arising out of and in the course of her employment and awarded her temporary total disability (TTD) benefits for three weeks, as well as permanent partial disability (PPD) benefits to the extent of 1% loss of use of the right index finger.

¶ 38 The hearing with regard to the January 14, 2007 claim was conducted pursuant to section 19(b) of the Act (820 ILCS 305/19(b) (West 2004)). As to that claim, the arbitrator found that the claimant sustained an accidental injury arising out of and in the course of her employment,

and awarded the claimant TTD benefits for 174 weeks. The arbitrator also determined that Morrison was liable for a total of \$331,575.24 in reasonable and necessary medical expenses, as payable pursuant to the medical-fee schedule in the Act, and that Morrison was obligated to authorize and pay for the future medical treatment recommended by Dr. Rosania. Finally, the arbitrator concluded that Morrison had not engaged in an unreasonable and vexatious delay in payment of benefits for the January 2007 injury and, therefore, was not liable for penalties or attorney fees. In making these determinations, the arbitrator found that the claimant's testimony and the medical evidence presented at the hearing supported the conclusion that her condition of ill-being was causally related to her employment accident on January 14, 2007. In addition, the arbitrator adopted the opinion of Dr. Fisher, who determined that the medical expenses for treatments of the claimant's lower back and extremities were reasonable and necessary to cure her condition of ill-being.

¶ 39 Morrison sought review of the arbitrator's decision, as it related to the January 14, 2007, injury, before the Commission. In a unanimous decision, the Commission corrected a statement relating to the onset of the claimant's right-leg pain, but otherwise affirmed and adopted the decision of the arbitrator as to that claim. The Commission also remanded the cause to the arbitrator pursuant to *Thomas v. Industrial Comm'n*, 78 Ill. 2d 327, 399 N.E.2d 1322 (1980), for further proceedings and a determination of any further TTD or permanent disability benefits to which the claimant might be entitled.

¶ 40 Morrison filed a petition for judicial review of the Commission's decision in the circuit court of Cook County. The circuit court confirmed the Commission's decision in all respects, and this appeal followed.

¶ 41 For its first issue on appeal, Morrison argues that the claimant failed to prove that her current condition of ill-being is causally related to her employment. In support of this argument, Morrison cites the fact that the claimant had been diagnosed with degenerative disc disease and

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that she did not report a specific work-related injury, but stated that she experienced pain in her lower back when she woke up on January 15, 2007. Morrison also places significant reliance on Dr. Mather's opinion that the claimant's condition of ill-being had returned to its pre-injury level and was not causally related to her employment. We do not believe that any of these considerations warrants reversal of the Commission's decision in this case.

¶ 42 In cases involving an injury to an employee with a preexisting condition, recovery under the Act depends upon the employee's ability to establish that the work-related injury aggravated or accelerated the preexisting disease such that the employee's current condition of ill-being can be said to have been causally connected to the work-related accidental injury and not simply the result of a normal degenerative process of the preexisting condition. *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 204-05, 797 N.E.2d 665 (2003). Accidental injury need not be the sole or the primary causative factor, as long as it was a causative factor in the resulting condition of ill-being. *Sisbro, Inc.*, 207 Ill. 2d at 205. The relevant question is whether the evidence supports an inference that the accidental injury aggravated the condition or accelerated the processes that led to the claimant's current condition of ill-being. *Mason & Dixon Lines, Inc. v. Industrial Comm'n*, 99 Ill. 2d 174, 181-82, 457 N.E.2d 1222 (1983); *Freeman United Coal Mining Company v. Industrial Comm'n*, 318 Ill. App. 3d 170, 173-74, 741 N.E.2d 1144 (2001).

¶ 43 Whether a claimant's disability is attributable solely to a degenerative process of the preexisting condition or to an aggravation or acceleration of a preexisting condition because of an accident is a factual determination to be decided by the Commission. *Sisbro, Inc.*, 207 Ill. 2d at 205. In deciding questions of fact, it is the function of the Commission to judge the credibility of the witnesses and resolve conflicting medical evidence. *Sisbro, Inc.*, 207 Ill. 2d at 206-07. On appeal, a reviewing court must not disregard or reject permissible inferences drawn by the Commission merely because other inferences might be drawn, nor should a court substitute its judgment for that of the Commission unless the Commission's findings are against the manifest

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weight of the evidence. *Sisbro, Inc.*, 207 Ill. 2d at 206. Even in cases where the facts are undisputed, the manifest-weight standard applies if more than one reasonable inference might be drawn from the established facts. *Orsini v. Industrial Comm'n*, 117 Ill. 2d 38, 44, 509 N.E.2d 1005 (1987). For a finding of fact to be against the manifest weight of the evidence, an opposite conclusion must be clearly apparent. *University of Illinois v. Industrial Comm'n*, 365 Ill. App. 3d 906, 910, 851 N.E.2d 72 (2006). Where the Commission's decision is supported by competent evidence, its finding of fact is not against the manifest weight of the evidence. *Benson v. Industrial Comm'n*, 91 Ill. 2d 445, 450, 440 N.E.2d 90 (1992); *University of Illinois*, 365 Ill. App. 3d at 911-12.

¶ 44 In challenging the Commission's finding of a causal connection between the claimant's condition of ill-being and her employment, Morrison relies primarily on the opinion of Dr. Mather. In particular, Dr. Mather concluded that the claimant suffered from chronic degenerative disc disease and that, although her low-back condition may have been aggravated by the January 2007 incident, her condition had resolved by November 8, 2007, and was not related to her employment. The Commission, however, found that the medical evidence and the opinions of several of the claimant's treating physicians supported the finding that her condition of ill-being was causally connected to the January 2007 work accident. In reaching this conclusion, the Commission particularly noted that, although the claimant previously had experienced symptoms in her right leg, those complaints were followed by a gap in treatment, which preceded the January 14, 2007, accident.

¶ 45 In claiming that Dr. Mather's opinion is more credible and more reliable, Morrison essentially challenges the Commission's assessment of the evidence and the inferences drawn therefrom. Yet, the determination of the credibility of the witnesses, the weight of the evidence, and the resolution of conflicts in the evidence, particularly medical evidence, falls squarely within the purview of the Commission. *Sisbro, Inc.*, 207 Ill. 2d at 206-07. Based upon the

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record before us, we are unable to conclude that the Commission's finding that a causal relationship exists between the claimant's condition of ill-being and her work injury on January 14, 2007, is against the manifest weight of the evidence.

¶ 46 Morrison next contends that the Commission erred in its determination of the medical expenses to which the claimant was entitled. This contention is without merit.

¶ 47 Section 8(a) of the Act provides that the claimant is entitled to recover reasonable medical expenses that are causally related to the accident and that are determined to be required to diagnose, relieve, or cure the effects of claimant's injury. 820 ILCS 305/8(a) (West 2010); *Elmhurst Memorial Hospital v. Industrial Comm'n*, 323 Ill. App. 3d 758, 764-65, 753 N.E.2d 1132 (2001). An employer's liability under this section of the Act continues as long as the medical services are required to relieve the injured employee from the effects of the injury. *Efengee Electrical Supply Co. v. Industrial Comm'n*, 36 Ill. 2d 450, 453, 223 N.E.2d 135 (1967); *Elmhurst Memorial Hospital*, 323 Ill. App. 3d at 764. The question of whether medical treatment is causally related to a compensable injury is one of fact to be determined by the Commission, and its finding on the issue will not be reversed on review unless contrary to the manifest weight of the evidence. *Zarley v. Industrial Comm'n*, 84 Ill. 2d 380, 389-90, 418 N.E.2d 717 (1981); *Elmhurst Memorial Hospital*, 323 Ill. App. 3d at 764-65. Similarly, the determination of whether medical expenses are reasonable and necessary is a question of fact for the Commission, and that determination will not be overturned unless it is against the manifest weight of the evidence. *Cole v. Byrd*, 167 Ill. 2d 128, 136-37, 656 N.E.2d 1068 (1995); *F & B Manufacturing Co. v. Industrial Comm'n*, 325 Ill. App. 3d 527, 534, 758 N.E.2d 18 (2001).

¶ 48 In this case, Morrison argues that all of the medical expenses for treatments rendered after November 8, 2008, were unreasonable and unnecessary. We note, however, that this argument is premised on Dr. Mather's opinion that, as of that date, the claimant's physical condition had returned to and stabilized at the pre-injury level and was not causally connected to her

employment. In light of the fact that we have rejected the contention on which this argument is based, we also reject Morrison's challenge of the grant of medical expenses after November 8, 2008.

¶ 49 Morrison also claims that the award of medical expenses for the epidural steroid injections administered to the claimant were unreasonable and unnecessary because Dr. Mather opined that such injections would not be beneficial to relieve the claimant's back pain. The record demonstrates that the claimant's treating physicians initially prescribed conservative treatment, consisting of three epidural steroid injections, physical therapy, and multiple medications. In March 2009, Dr. Fisher concluded that the claimant required surgery because she had failed to improve despite these conservative treatments.

¶ 50 As the claimant correctly points out, nothing in the language of section 8(a) of the Act limits compensability to treatment which is successful. *Portec, Inc. v. Industrial Comm'n*, 95 Ill. 2d 303, 314, 447 N.E.2d 813 (1983). The Commission specifically found that the medical expenses for treatment of the claimant's lower back and extremities after January 14, 2007, were reasonable and necessary to cure her condition of ill-being. The Commission was not obligated to accept the opinion of Dr. Mather, and we find nothing in the record to compel reversal of the Commission's factual determination as to the reasonableness and necessity of the prescribed epidural injections. Accordingly, the Commission's award of medical expenses is not against the manifest weight of the evidence.

¶ 51 Morrison next contends that the Commission's award of TTD benefits for 174 weeks was against the manifest weight of the evidence. We disagree.

¶ 52 A claimant is temporarily and totally disabled from the time an injury incapacitates her from the workforce until such time as she is as far recovered or restored as the permanent character of her injury will permit. *Archer Daniels Midland Co. v. Industrial Comm'n*, 138 Ill. 2d 107, 118, 561 N.E.2d 623 (1990). The time period of TTD is a question of fact for the

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Commission, and its decision should not be disturbed unless it is against the manifest weight of the evidence. *Archer Daniels Midland Co.*, 138 Ill. 2d at 118-19. After an injured employee's physical condition has stabilized, the employee is no longer eligible for TTD benefits because the disabling condition has become permanent. *Mechanical Devices v. Industrial Comm'n*, 344 Ill. App. 3d 752, 759, 800 N.E.2d 819 (2003).

¶ 53 Here, the claimant testified that she continued to suffer from pain in her lower extremities and that further treatment had been recommended by Dr. Rosania. In addition, the Commission found that the medical records demonstrated that the claimant's treating physicians had ordered that she not work from May 17, 2007, through the date of the hearing on September 15, 2010. Moreover, the Commission determined that the off-work orders were causally connected to her employment-related condition of ill-being.

¶ 54 It was the obligation and prerogative of the Commission to judge the credibility of the witnesses and resolve conflicting medical evidence. *Sisbro, Inc.*, 207 Ill. 2d at 206. The Commission implicitly found the treatment notes and opinions of the claimant's treating physicians to be more credible and more persuasive than the opinion of Dr. Mather. Based on the record before us, we cannot say that the Commission's decision to award the claimant TTD benefits for a period of 174 weeks is against the manifest weight of the evidence.

¶ 55 As a final matter, we note that Morrison has argued in its reply brief that the Commission's refusal to award penalties and attorney fees pursuant to sections 16, 19(k), and 19(l) of the Act (820 ILCS 305/16, 19(k), 19(l) (West 2010)) was proper. Although the claimant challenged the denial of penalties and attorney fees in her exceptions to the arbitration decision filed before the Commission and in her brief filed in the circuit court, the record does not reflect that the claimant filed a petition for review seeking reversal of that aspect of the Commission's decision, nor has she filed a cross-appeal or supporting argument in this court. Consequently, the propriety of the Commission's denial of penalties and attorney fees has not been properly

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preserved for appeal, and we decline to address it.

¶ 56 Based upon the foregoing analysis, we affirm the judgment of the circuit court, which confirmed the Commission's decision, and remand the matter back to the Commission for further proceedings.

¶ 57 Affirmed and remanded.