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2013 IL App (3d) 120658WC-U

Order filed September 27, 2013

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

ALTER TRADING CORPORATION d/b/a	)	Appeal from the Circuit Court
ALTER RECYCLING,	)	of the Tenth Judicial Circuit,
	)	Peoria County, Illinois
Appellant,	)	
	)	
v.	)	Appeal No. 3-12-0658WC
	)	Circuit No. 11-MR-344
	)	
THE ILLINOIS WORKERS' COMPENSATION	)	Honorable
COMMISSION <i>et al.</i> (Cleatius Garner,	)	Michael Brandt,
Appellee).	)	Judge, Presiding.

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PRESIDING JUSTICE HOLDRIDGE delivered the judgment of the court.  
Justices Hoffman, Stewart, Hudson, and Harris concurred.

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**ORDER**

¶ 1 *Held:* (1) The Commission did not abuse its discretion in admitting and relying upon the written report of one of the employer's independent medical examiners over the employer's objection on hearsay grounds where the admission of this evidence was cumulative and was not prejudicial to the employer; and (2) the Commission's finding that the claimant proved a causal connection between his work accident and his current condition of ill-being was not against the manifest weight of the evidence.

¶ 2 The claimant, Cleatius Garner, filed an application for adjustment of claim under the Workers' Compensation Act (the Act) (820 ILCS 305/1 *et seq.* (West 2008)) seeking benefits for injuries to his lower back, hips, and left leg which he allegedly sustained while working for the employer, Alter Trading Corporation d/b/a/ Alter Recycling (employer). After conducting a hearing, the arbitrator found that the claimant had proven a work-related accident that aggravated his preexisting lower back condition and awarded medical expenses and prospective medical care, including lower back surgery. The employer appealed the arbitrator's decision to the Illinois Workers' Compensation Commission (the Commission). The Commission modified the arbitrator's awarded of medical expenses, made some other minor modifications, and otherwise affirmed and adopted the arbitrator's decision. Commissioner Lindsay dissented. The employer then sought judicial review of the Commission's decision in the circuit court of Peoria County, which confirmed the Commission's ruling. This appeal followed.

¶ 3 **FACTS**

¶ 4 The claimant worked for the employer as a crane operator. He suffered an accident at work on or about July 23, 2008, when he was 58 years old. On that date, while the claimant was walking next to a crane and showing a coworker how to operate the crane, he tripped over a wire and fell to the ground. During the arbitration hearing, the claimant testified that, immediately after the fall, he was "real sore" in the "butt" and legs. Asked if he was having some pain in his low back at that time, he responded "[n]ot as much as in my hip." An accident report completed by the employer on the day of the accident reflects that the claimant had suffered a "[p]ulled muscle, in his "[l]eft leg." According to the report, the claimant "said that he was fine" and he would "wait to see if any problems arise later." The claimant testified that, shortly thereafter, he

began to experience pain in his back with radiating pain down his leg, but the pain did not become severe enough for him to seek immediate medical treatment.

¶ 5 The employer recommended that the claimant see a doctor at the Proctor First Medical Clinic in Peoria, Illinois (Proctor). The claimant first went to Proctor on August 25, 2008. The medical record of that visit reflects that the claimant had suffered an injury to his left leg during a work accident and that he was experiencing pain in his left knee and left hip. The claimant testified that he also complained of pain in his lower back during that visit, but the medical record does not mention any problems relating to the claimant's lower back.

¶ 6 The doctors at Proctor referred the claimant to Midwest Orthopedic Center, SC (Midwest). The claimant saw Dr. Jeffrey Akeson, an orthopedic specialist and surgeon at Midwest, on November 14, 2008. The medical history questionnaire prepared at the time of this visit notes that the claimant's "chief complaint" was "left hip leg pain." The questionnaire asked the claimant to indicate whether he had various health problems or conditions, including "spine pain radiating to arm/leg." The claimant indicated that he was not having any such pain. Dr. Akeson's November 14, 2008, medical record indicates that, at the time of the July 23, 2008, work accident, the claimant "had a strain pulling and painful sensation around the left hip" and "has now had medial thigh burning with constant anterior pain."<sup>1</sup>

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<sup>1</sup> The claimant's testimony at the arbitration hearing was somewhat different. During the hearing, the claimant testified that, when he went to Proctor First Care, he complained that he was hurting in his "leg, lower back and the butt area." He claimed that his treaters at Proctor told him that "it was the back," but that he (the claimant) "thought it was the hip." He testified that, "[w]hen I would touch the area it was hurting they said no, it's your back."

¶ 7 After examining the claimant and reviewing his scans (including an MRI of the claimant's left hip and lumbosacral spine), Dr. Akeson did not see any evidence of a serious injury. He diagnosed a left hip flexor strain, but he "[could not] find anything else serious subjectively." Dr. Akeson prescribed physical therapy and released the claimant to continue working light duty.

¶ 8 Dr. Akeson referred the claimant to Dr. Daniel Mulconrey, another orthopedic surgeon at Midwest. Dr. Mulconrey first examined the claimant on April 1, 2009. After reviewing the claimant's MRI and the claimant's history of unsuccessful conservative treatments, Dr. Mulconrey recommended that the claimant undergo lower back surgery.

¶ 9 The claimant had experienced problems with his lower back and left leg prior to the July 23, 2008, work accident. In December 2004, the claimant fell from a crane and landed on his lower back and left buttock. This fall caused lower back pain and pain radiating into both legs, more intensely in the left leg. Over the next several months, this pain gradually increased in intensity. In March 2005, the claimant sought treatment at the Orthopedic Institute of Illinois, where he was assessed as having symptoms which "could be attributable to some facet arthropathy." A May 31, 2005, MRI showed degenerative disc changes with narrowing of the disc space at L5-S1 and a small central disc bulge at that level. In June and September 2005, the claimant continued to seek treatment from various doctors for lower back pain with pain and numbness radiating into his legs.

¶ 10 On January 19, 2006, the claimant slipped and fell at work. He reported that he first noticed pain and tightness in his lower back within approximately 20 hours of the fall. At that time, he admitted that the lower back injuries he received in the December 2004 fall continued to

give him trouble. His lower back pain was radiating into his legs. Proctor referred the claimant to Dr. Kevin Rice.

¶ 11 On June 1, 2006, Dr. Rice ordered X-rays of the claimant's lumbar spine, which revealed "mild hypertrophic spurring, consistent with degenerative disc disease." Dr. Rice subsequently ordered an MRI of the claimant's lumbar spine. The MRI, which was performed on July 18, 2006, revealed "mild facet arthropathy at L4-L5," "dislocation and slight bulging of the L5-S1 disc," and a "[s]mall central disc herniation at L5-S1."

¶ 12 The claimant sought further treatment for lower back and leg pain in August of 2006 and in January and April of 2007. Dr. Rice concluded that "a lot of [the claimant's] pain is driven by his habitus," *i.e.*, his obesity. On April 30, 2007, the claimant rated his low back pain as 4 on a scale of 1 to 10 and reported that it was hard for him to walk distances.

¶ 13 At the employer's request, Dr. Robert Martin performed an independent medical examination (IME) of the claimant on May 6, 2009. The claimant told Dr. Martin that he "had a fall off a crane years ago and had low back pain" and that he had "completely recovered from that injury." After examining the claimant and reviewing some of the claimant's medical records (including the July 18, 2006, MRI film), Dr. Martin opined that the claimant's preexisting herniated disc was "probably aggravated by his fall at work on 7/23/08 and now is causing the inflammation that causes the pain he describes."

¶ 14 However, after reviewing additional medical records supplied by the employer (including treatment records that predated the July 2008 accident), Dr. Martin changed his causation opinion.<sup>2</sup> He now concluded that the claimant did not aggravate his herniated disc

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<sup>2</sup> In a letter to the employer's counsel, Dr. Martin noted that "it is apparent to me that [the

during the July 2008 work accident. Dr. Martin stated that his based this opinion on the following facts: (1) when Dr. Martin examined the claimant in May 2009 (more than nine months after the July 2008 work accident), the claimant complained of the same symptoms that he had complained of to other doctors "from 2005 to at least mid 2007"; and (2) the July 18, 2006, MRI showed the same physical findings as did the MRI taken after the July 2008 work accident. In short, because he found that there was "no change in [the claimant's] symptoms and no change in his objective testing" after the July 2008 work accident, Dr. Martin concluded that the accident did not aggravate the claimant's preexisting condition. Moreover, Dr. Martin opined that longstanding symptoms like those the claimant had before the July 2008 accident do not simply go away.

¶ 15 The employer sought another IME opinion from Dr. Jerry Jochims, an orthopedic physician. After reviewing the claimant's complete medical history and Dr. Martin's reports, Dr. Jochims concluded that all of the claimant's back and leg conditions were preexisting and that the July 2008 work accident neither caused nor aggravated the claimant's back, left leg, and hip problems. Dr. Jochims based this opinion on his conclusion that there were no changes in either the objective findings or the claimant's subjective complaints after the July 2008 accident. The doctor based his causation opinion entirely on a review of the relevant records and did not examine the claimant before rendering his opinion.

¶ 16 In September 2009, the employer requested another independent medical examination of the claimant. This examination was performed by Dr. Camilla Frederick. After examining the \_\_\_\_\_ claimant] was not honest with me regarding his previous injury" when Dr. Martin examined him in May 2009.

claimant and reviewing some of the relevant medical records, Dr. Frederick issued a report in which she opined that the claimant's July 23, 2008, work accident aggravated his herniated disc.

¶ 17 During her August 3, 2010, evidence deposition, Dr. Frederick appeared to qualify her causation opinion by testifying that the July 2008 accident caused only a "temporary aggravation, at best, that returned back to [the claimant's] baseline."<sup>3</sup> Dr. Frederick admitted that, in her initial report, she did not characterize the aggravation as "temporary." She testified that, at the time she drafted her report, she needed additional treatment records to help her determine whether the aggravation was temporary and that she had not been given those records until the employer provided them two days before her deposition. When asked when she believed the claimant's condition "return[ed] back to his baseline" after the July 2008 accident, Dr. Frederick testified that it "[m]ay take a while to formulate that opinion." Dr. Frederick also testified that, if the July 2008 work accident aggravated the claimant's preexisting back pain and problems, she would have expected those symptoms to have started close to the time of the accident.

¶ 18. The claimant offered the deposition testimony of Dr. Mulconrey into evidence. During his deposition, Dr. Mulconrey opined that, based upon the history the claimant provided him, "it is reasonable to assume" that the July 2008 work accident "may have aggravated" the claimant's underlying degenerative disc disease and "might have caused" his herniated disc. However, Dr. Mulconrey noted that these conclusions were based on the medical history provided by the claimant and, more specifically, the claimant's assertion that the injury he sustained on July 23,

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<sup>3</sup> In support of this opinion, Dr. Frederick noted that the claimant had "ongoing medical symptoms" prior to the July 2008 accident that were "quite similar and aggravated very similarly to the ones after that time."

2008, "was the origin of his lumbar-based pain and lower extremity symptoms." During cross-examination, Dr. Mulconrey testified that the claimant did not disclose that he had a prior history of back pain and left leg pain.<sup>4</sup> Dr. Mulconrey stated that he would have expected the claimant to have disclosed this information, and he admitted that it is important to know an accurate and complete medical history of a patient in order to give a fair and accurate opinion regarding the cause of the patient's injury. The doctor testified that he relies upon the patient to give him an accurate and complete medical history and assumes that he or she does so.

¶ 19 The employer's counsel asked Dr. Mulconrey to assume that the claimant had history of lower back and left leg pain prior to the July 2008 accident. He then asked the doctor whether, assuming those things, he "would want to be able to look at the records regarding that history" and "talk to [the claimant] regarding that history in order to be comfortable that [his] causation opinion was accurate." Dr. Mulconrey responded:

"If a patient had reported to several other healthcare providers that he had had a history of lumbar pain and lower extremity pain prior to this incident that he reports to me and informed me that it all occurred on that date, then it would affect the causal relationship that I described earlier as the patient would be giving me an inaccurate history. And the history is what I'm basing the causation upon."

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<sup>4</sup> Dr. Mulconrey was also unaware that the claimant had previously fallen from a crane at work.

¶ 20 On redirect examination, the claimant's counsel asked Dr. Mulconrey whether the employer's counsel had provided him with any medical records that would cause him to change his causation opinions. Dr. Mulconrey responded, "No."

¶ 21 During the arbitration hearing, the claimant admitted that he had experienced back problems prior to the July 2008 work accident. However, he testified that "all the doctors said it was a strained muscle and it would get better with time, which it did." He also testified that, in July 2008 (immediately prior to the accident), he was working full duty without restrictions and was having no pain in his lower back. The claimant also noted that he never received a recommendation for surgery until Dr. Mulconrey recommended surgery several months after the July 2008 accident. He stated that he continued working up until the time of arbitration.

¶ 22 The claimant also testified that the pain he experienced "today after [the] July 2008 injury" was "different than any back pain [he] ever had" because it went down his legs to his feet and hurt so bad that he had to go to the emergency room, where he was given morphine for the pain. The claimant stated that he continues to have significant pain in his back with radiating pain down his leg, which he believes could be improved by the surgery recommended by Dr. Mulconrey.

¶ 23 During the arbitration hearing, the claimant moved to introduce Dr. Frederick's IME report (which was Exhibit 2 to Dr. Frederick's evidence deposition) into evidence. The employer objected on hearsay grounds. The arbitrator admitted the IME report over the employer's objection.

¶ 24 The arbitrator found that the claimant had proven that his current condition of ill-being was causally related to his June 23, 2008, work accident. The arbitrator stressed that the doctors

who treated the claimant were chosen by the employer, not the claimant. Based upon the "significant" fact that the treatment recommendations and all of the medical opinions presented in the case came from "essentially the [employer's] doctors," the arbitrator felt "compelled" to find that the claimant's condition of ill-being was aggravated by the July 23, 2008, work accident.

¶ 25 The arbitrator noted that the employer had "gone to great lengths to try and dispute causal relationship in this case" by seeking IME reports from several doctors after initially receiving some unfavorable causation opinions from their independent medical examiners. The arbitrator "question[ed] the [employer's] motives" in providing Dr. Frederick with additional medical records the day before her evidence deposition, "essentially asking the doctor to try and supplement [her] report one day prior to [her] testimony." The arbitrator found this to be inappropriate and gave no weight to the records belatedly provided by the employer.

¶ 26 Having found causation, the arbitrator awarded medical expenses and prospective medical care, including the lower back surgery recommended by Dr. Mulconrey.

¶ 27 The employer appealed the arbitrator's decision to the Commission. The Commission modified the arbitrator's award of medical expenses, made some other minor modifications, and otherwise affirmed and adopted the arbitrator's decision.

¶ 28 Commissioner Lindsay dissented. In Commissioner Lindsay's view, the claimant failed to prove that his July 2008 work accident aggravated his preexisting lower back condition. Commissioner Lindsay noted that, immediately after the July 2008 accident, the claimant reported pain only in his groin, left leg, left knee, and left hip. These complaints were consistent with a pulled leg muscle. Commissioner Lindsay observed that the "first mention of any low back pain is found in the physical therapist's note of February 11, 2009, almost seven months

after the accident." Moreover, Commissioner Lindsay found that Dr. Mulconrey's causation opinion was "not persuasive" because: (1) Dr. Mulconrey did not review Dr. Akeson's medical records or the physical therapy records, which revealed the absence of any back complaints for a significant period of time after the accident; (2) Dr. Mulconrey's opinion was "premised upon an inaccurate history from [the claimant]," including the false claim that the claimant experienced "increased lumbar pain" at the time of the accident; and (3) Dr. Mulconrey "did not factor in [the claimant's] pre-existing back problems."

¶ 29 Accordingly, Commissioner Lindsay would have found that the claimant established causation for his work injury only through February 11, 2009, the date when he stopped complaining about his left leg and began focusing his complaints on his low back. She would have vacated the award of prospective medical care and modified the award of medical expenses accordingly.

¶ 30 The employer sought judicial review of the Commission's decision in the circuit court of Peoria County, which confirmed the Commission's decision. Although the circuit court found Commissioner Lindsay's dissenting opinion to be "somewhat compelling," it found that the Commission's causation finding was not against the manifest weight of the evidence. In addition, the circuit court held that, even if the admission of Dr. Frederick's IME report was error, it was harmless error because "the report's author actually testified and was subject to cross-examination, other competent evidence was received, and the report itself was not specifically relied upon in the administrative agency's findings." This appeal followed.

## ANALYSIS

### ¶ 31 1. The Admission of Dr. Frederick's IME Report

¶ 32 As noted, the arbitrator admitted Dr. Frederick's September 24, 2009, IME report into evidence over the employer's objection on hearsay grounds. The employer argues that this was reversible error. We disagree.

¶ 33 The rules of evidence apply to all proceedings before the Commission or an arbitrator, except to the extent they conflict with the Act. 50 Ill. Admin. Code § 7030.70(a) (2002); *Paganelis v. Industrial Comm'n*, 132 Ill. 2d 468, 479 (1989). Evidentiary rulings made during the course of a workers' compensation proceeding will be upheld on review absent an abuse of discretion. *Greaney v. Industrial Comm'n*, 358 Ill. App. 3d 1002, 1010 (2005). The report of a party's independent medical examiner is inadmissible hearsay when the examiner does not testify. See, e.g., *Westin Hotel v. Industrial Comm'n of Illinois*, 372 Ill. App. 3d 527, 536-37 (2007); *Greaney*, 358 Ill. App. 3d at 1010-11. It is not clear that Dr. Frederick's IME report was inadmissible hearsay in this case because Dr. Frederick testified about the contents of the report and was subject to cross-examination during her evidence deposition.

¶ 34 Regardless, even if the arbitrator abused its discretion in admitting the IME report, the error would not be reversible. "[N]ot every admission of incompetent evidence requires reversal." *Westin Hotel*, 372 Ill. App. 3d at 537; see also *Greaney*, 358 Ill. App. 3d at 1013. "[W]hen an examination of the record as a whole demonstrates that the erroneously admitted evidence is cumulative and does not otherwise prejudice the objecting party, error in its admission is harmless." *Westin Hotel*, 372 Ill. App. 3d at 537. In this case, Dr. Frederick testified regarding the conclusions she drew in her IME report and her reasons for drawing those

conclusions. Thus, the report was merely cumulative of her testimony. The employer expressly admitted as much; when the claimant's counsel stated during Dr. Frederick's deposition that he was going to move to admit the IME report, the employer's counsel objected on the grounds that "[i]t's hearsay *and I think it's cumulative of her oral testimony here today.*" (Emphasis added.) In addition, the employer does not argue that Dr. Frederick changed her causation opinion during her deposition testimony. To the contrary, it contends that she expressed the same causation opinion during her deposition testimony that she had expressed in her IME report.<sup>5</sup> Accordingly, it is difficult to fathom how the admission of the IME report could have prejudiced the employer. Further, as detailed in the following section, there was competent evidence aside from Dr. Frederick's IME report that sufficiently supported the Commission's causation finding, including Dr. Frederick's deposition testimony and the claimant's testimony. See *Westin Hotel*, 372 Ill. App. 3d at 537 (holding that Commission's erroneous admission of an IME report was harmless

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<sup>5</sup> The employer asserts in its reply brief that "Dr. Frederick never changed any opinion—she simply clarified her opinion that any aggravation was 'a temporary aggravation at best.'" It is not entirely clear that this is correct, because Dr. Frederick's IME report does not describe the aggravation as "temporary." Regardless, even if Dr. Frederick appeared to change (or at least to qualify) her initial opinion by testifying that the July 2008 accident caused only a "temporary aggravation, at best, that returned back to [the claimant's] baseline," she was unable to specify how long the aggravation lasted or when the claimant returned to his "baseline." Thus, her opinion remained essentially the same, *i.e.*, that the July 2008 accident aggravated the claimant back condition. Her testimony did not materially alter the causation opinion expressed in her IME report.

where "the Commission's finding as to causation was sufficiently supported by other competent evidence.")

¶ 35

## 2. Causation

¶ 36 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 or accelerating 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.

¶ 37 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). A reviewing court may not substitute its judgment for that of the Commission on these issues merely because other inferences from the evidence may be drawn. *Berry v. Industrial Comm'n*, 99 Ill. 2d 401, 407 (1984). We will overturn the Commission's causation finding only when it is against the manifest weight of the evidence, *i.e.*, only when 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). When the evidence is sufficient to support the Commission's causation finding, we will affirm. *Id.*

¶ 38 Applying this deferential standard, we cannot say that the Commission's conclusion that the claimant proved that his July 23, 2008, work accident aggravated his preexisting lower back condition was against the manifest weight of the evidence. After examining the claimant and reviewing his medical records, Dr. Frederick opined that claimant's July 23, 2008, work accident aggravated his herniated disc. Although Dr. Frederick appeared to qualify her causation opinion during her evidence deposition by testifying that the July 2008 accident caused only a "temporary aggravation, at best, that returned back to [the claimant's] baseline," she was unable to specify the duration of the aggravation or when the claimant's condition returned to "baseline." Thus, nothing in her deposition materially altered or undermined her causation opinion. It is true that Dr. Martin and Dr. Jochims found no causal connection between the July 2008 accident and the claimant's current condition of ill-being. However, it is the Commission's province to weigh these opinions and to resolve conflicts in medical opinion evidence. *Hosteny*, 397 Ill. App. 3d at 675; *Fickas*, 308 Ill. App. 3d at 1041. We cannot say that the Commission's decision to credit

Dr. Frederick's opinion over the opinions of Drs. Martin and Jochims was against the manifest weight of the evidence.

¶ 39 Moreover, Dr. Mulconrey opined that the claimant's current condition of ill-being was causally related to the July 2008 work accident, and Dr. Mulconrey did not withdraw or change this opinion during his subsequent deposition testimony. At most, Dr. Mulconrey's testimony suggests that he probably would have changed his causation opinion in some way had the employer sent him the medical records which showed that the claimant had a prior history of lower back and left leg pain. However, for reasons that are not clear, the employer apparently never sent him those records. Thus, Dr. Mulconrey never changed his causation opinion based upon the claimant's actual medical history. He did not opine that the claimant's prior history of lower back and left leg pain negated or undermined the inference that the July 2008 work accident may have aggravated the claimant's underlying degenerative disc disease and might have caused his herniated disc. Rather, in response to hypothetical questions posed by the employer's counsel, Dr. Mulconrey merely suggested that his causation opinion would be "affect[ed]" if the claimant had reported lower back and left leg pain to other doctors prior to the July 2008 accident. The employer's counsel did not ask Dr. Mulconrey how, specifically, that information would change his causation opinion. Moreover, when the claimant's counsel asked Dr. Mulconrey whether the employer's counsel had provided him with any medical records that would cause him to change his causation opinions, Dr. Mulconrey responded, "No." Thus, although the weight of his causation opinion was arguably diminished, Dr. Mulconrey's opinion remained unchanged. Dr. Mulconrey's testimony does not support the employer's argument that the claimant's current condition of ill-being is not casually related to his July 2008 work accident.

¶ 40 Further, the claimant's testimony provides at least some additional support for the Commission's finding of causation. "A chain of events which demonstrates a previous condition of good health, an accident, and a subsequent injury resulting in disability may be sufficient circumstantial evidence to prove a causal nexus between the accident and the employee's injury." *Shafer v. Illinois Workers' Compensation Comm'n*, 2011 IL App (4th) 100505WC, ¶ 39 (quoting *International Harvester v. Industrial Comm'n*, 93 Ill. 2d 59, 63–64 (1982)). Here, the claimant testified that: (1) his preexisting back and leg symptoms had resolved prior to the July 2008 accident;<sup>6</sup> (2) immediately prior to the July 2008 accident, he was working full duty without restrictions and was having no pain in his lower back; (3) his pain and other back and leg symptoms resumed after the July 2008 accident; (4) the pain he experienced after the July 2008 accident was "different than any back pain [he] ever had" because it went down his legs to his feet and hurt so badly that he had to go to the emergency room, where he was given morphine for the pain; (5) he never received a recommendation for surgery until after the July 2008 accident. This testimony supports the Commission's causation finding under a "chain of events" analysis.

¶ 41 We concede that there is other evidence in the record that contradicts the claimant's "chain of events" testimony and undermines the inference of causation. For example, there is no evidence in the medical records that the claimant complained of pain in his lower back until approximately seven months after the July 2008 accident. In fact, almost four months after the accident, the claimant indicated in a patient history questionnaire that he did *not* have spinal pain

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<sup>6</sup> The medical records arguably corroborate this claim, as there are no records of any treatment for the claimant's back and leg problems between April 30, 2007, and the July 23, 2008, accident.

radiating to his legs. Further, Drs. Martin and Jochims each concluded that the claimant's subjective complaints, as well as the objective physical findings, were the same before and after the July 2008 accident.

¶ 42 However, the question is not what conclusion we would have reached if we were deciding this case in the first instance, but whether there is sufficient evidence to support the Commission's decision. *Pietrzak*, 329 Ill. App. 3d at 833. As noted above, we believe there is. When different reasonable inferences can be drawn from the facts, the inferences drawn by the Commission will be accepted unless they are against the manifest weight of the evidence. *Gilster Mary Lee Corp. v. Industrial Comm'n*, 326 Ill. App. 3d 177, 182 (2001). Although this is a close case, we cannot say that the inferences drawn by the Commission were against the manifest weight of the evidence or that an opposite conclusion was "clearly apparent." We therefore affirm the Commission's decision.

¶ 43 CONCLUSION

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

¶ 45 Affirmed; cause remanded.