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2013 IL App (4th) 111053WC-U

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).

NO. 4-11-1053WC

IN THE

APPELLATE COURT OF ILLINOIS

FOURTH DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

BRIAN SOMMERS,)	Appeal from the
)	Circuit Court of
Appellant,)	Sangamon County.
)	
v.)	No. 11-MR-185
)	
ILLINOIS WORKERS' COMPENSATION)	
COMMISSION, (Springfield Sanitary District),)	Honorable
)	John Schmidt,
Appellees.)	Judge, presiding.

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

ORDER

Held: The Commission's finding that the claimant failed to prove that his current condition of ill-being is causally related to a March 12, 2008, work-related accident is against the manifest weight of the evidence.

¶ 1 The claimant, Brian Sommers, was involved in a work-related accident on March 12, 2008, while working for the employer, Springfield Sanitary District. He received treatments for back and left leg pain up to June 2, 2008. He did not seek any further medical treatment

until May 11, 2009, when he sought additional treatments for back and left leg pain after experiencing severe pain on May 10, 2009. He argues that his treatments on and after May 11, 2009, are causally connected to the March 2008 work accident. Alternatively, he argues that his condition of ill-being is causally related to a repetitive trauma accident that manifested itself on May 10, 2009.

¶ 2 The claimant filed a claim under the Illinois Workers Compensation Act (the Act), 820 ILCS 305/1 to 30 (West 2010). After an expedited hearing pursuant to section 19(b) of the Act, 820 ILCS 305/19(b) (West 2010), the arbitrator found that the claimant failed to prove that he sustained a repetitive trauma accident that manifested itself in May 2009. However, the arbitrator held that the claimant had not reached maximum medical improvement (MMI) since the March 12, 2008, accident and that the March 2008 accident resulted in an L5/S1 herniated disc. The arbitrator found that the accident "continues to be the cause of his current condition, disability[,] and need for an L5/S1 microdiscectomy." The arbitrator awarded the claimant temporary total disability (TTD) benefits and medical expenses and ordered the employer to authorize and pay for the claimant's L5/S1 microdiscectomy.

¶ 3 The employer appealed the arbitrator's decision to the Workers' Compensation Commission (the Commission). The Commission reversed the arbitrator's decision and denied the claimant's claim. The Commission found that the claimant reached MMI following the March 2008 work-related accident as of June 2, 2008, and that his current

condition of ill-being was not causally connected with that accident. With respect to the claimant's claim of a repetitive trauma accident that manifested itself in May 2009, the Commission noted that the claimant "undoubtedly experienced low back pain on or about May 11, 2009," but it was "more likely than not that [the claimant's] current condition of ill-being is the result of his attempt to wash his dog on May 10, 2009." One commissioner dissented and believed that the claimant sustained his burden of proving that his current condition of ill-being is causally related to the March 12, 2008, accident.

¶ 4 The claimant appealed the Commission's decision to the circuit court. The circuit court entered a judgment that confirmed the Commission's decision, and the claimant now appeals the circuit court's judgment.

¶ 5 **BACKGROUND**

¶ 6 The claimant had been employed as an operator for the employer for approximately four years, supervising the employer's waste water treatment facilities. On March 12, 2008, he stood on an aluminum grate platform while cleaning a "thickener machine." The grating that the claimant stood on broke loose, and he fell approximately two feet straight down, landing on his left leg. He fell backward, and his waist struck a concrete retaining wall. The claimant experienced immediate pain, particularly in his left side and left hip. The fall also resulted in a cut on the outside of his left calf.

¶ 7 The claimant notified his supervisor, Jeff Slead. Slead took the claimant to the emergency room. The records from the emergency room indicate that the claimant

complained of back pain with radiation of pain down both legs. The emergency room staff took x-rays of the claimant's sacrococcygeal area, pelvis, lumbosacral spine, left knee, and left ankle. All of the x-rays were negative. The emergency room doctor removed the claimant from work for two days and advised him to follow up with his primary care physician. After being off of work for two days, the claimant returned and began training for a new position as a maintenance mechanic.

¶ 8 On April 3, 2008, the claimant followed up with his primary care physician, Dr. Bland, and was seen by his physician's assistant, Carol Harper. The claimant reported complaints of pain in his lower back that radiated to his left thigh. Harper also noted tenderness along the L5/S1 and S1 joint on the left side with the tenderness radiating along the sciatic nerve distribution. Harper diagnosed the claimant as having a back sprain and prescribed medications and physical therapy.

¶ 9 In her report dated April 16, 2008, the physical therapist noted that the claimant "feels a pinch and stab in the left lower back and sometimes it shoots down the left leg. Mostly the pain just goes into the thigh and sometimes into the calf and the foot will tingle on occasion." The physical therapist's plan of treatment included sessions twice a week for three to six weeks.

¶ 10 Harper treated the claimant again on June 2, 2008. On that date, Harper noted that the claimant "had seen a huge improvement in both the shoulder and the low back" but continued to have occasional back pain on the left. The claimant denied any "radicular pain."

At the arbitration hearing, he testified that he never stopped having pain in his left buttock area and in his left thigh. He had some "good days" and some "bad days." He testified that he asked for an MRI, but it was not ordered. Harper told the claimant to come back for additional treatment as needed.

¶ 11 On June 12, 2008, the claimant's physical therapist noted in her discharge summary that the claimant had attended four of eight visits, including the initial assessment and "no showed his visit on May 16, 2008." The claimant testified that he did not go back to physical therapy because he was frustrated that he could not get approval for an MRI.

¶ 12 Between June 2, 2008, and May 11, 2009, the claimant did not seek any additional medical care, although he testified that he continued to experience left leg pain and had bouts of pain so severe that he missed a few days of work. He testified that his new position as a maintenance mechanic required him to get into awkward positions, bend, and crawl around. However, he testified that, as a maintenance mechanic, he was able to control the level of his activity and seek assistance with lifting. He testified that his leg pain would vary. When asked whether he ever reported any problems with work to the employer, he testified that he might have complained about his back or leg to his foreman.

¶ 13 The claimant testified that on May 10, 2009, he assisted with cutting down trees for the employer for almost six hours. He started to "get that pain" which felt like an electrical shock down his leg. He told his foreman that he was not feeling too well and headed home. He treated the pain by switching between ice and heat for about an hour and a half. He then

got up to move around and started to give his dog a bath. While he was bathing his dog, pain started aggravating him again, so he had his wife finish. He then got in the shower and felt a shock down his leg for the third time that day when he bent over to pick something up.

¶ 14 The next day, May 11, 2009, the claimant returned to Harper for additional treatments. In her office visit notes, Harper wrote "left leg injury- - hurt in accident, pain off and on, severe pain since last night." She wrote that the claimant came for "recurrence of back pain" and that he "had the original injury last year and has had some intermittent flares since then but nothing as bad as now." According to her notes, the claimant told Harper that he "squatted down to pick something up and couldn't hardly get up." He reported pain in the left low back and left buttock/leg since then. Harper removed the claimant from work for two days and prescribed additional medications. The claimant's records include a "health status form," signed by one of his medical providers, which states that the claimant is unable to work on May 11 and 12, 2009, because of "[a]cute back pain secondary to injury one year ago."

¶ 15 On May 27, 2009, Dr. Geoffrey Bland treated the claimant. Dr. Bland's office visit notes indicate that the claimant complained of pain in his low back, left buttock, and left thigh. Dr. Bland wrote: "This is originally the result of a work comp injury March 12th of last year." Dr. Bland noted that the claimant had been doing well until recently when the pain flared up once again. Dr. Bland felt that the claimant's symptoms were soft tissue in nature and referred him to physical therapy. The claimant testified that he insisted on an

MRI before more physical therapy, and Dr. Bland ordered the MRI.

¶ 16 On June 4, 2009, the claimant began the second round of physical therapy prescribed by Dr. Bland. The physical therapist's initial evaluation notes state that the claimant reported that he had low back pain that started on May 10, 2009. The therapist wrote that the claimant reported that during the evening on May 10, 2009, he gave his dog a bath and was "flexed over bathing the dog." Later, he bent over in the shower to pick something up and felt "excruciating pain in his back and he got radiating pain into his left leg." The therapist also wrote as follows:

"The patient states originally he got low back pain on 03/12/2008 after hitting a grate at work with his foot and getting jolted. He had back pain then, which finally subside after physical therapy. The patient reports his pain is aggravating with sitting and driving and improves with walking."

¶ 17 At the hearing, the claimant testified that he related the events of washing his dog and in bending over to explain certain moves that he would do that would cause the pain and that "just happened to be that day what a couple things that I did that caused the pain." He testified that he had similar episodes the previous year when he moved certain ways.

¶ 18 On June 5, 2009, the claimant filled out a "first report of injury" form in which he described experiencing low back and left leg injuries. In answering the question of how the accident occurred, the claimant wrote: "repeated bending, lifting, climbing, crawling under vehicles." The claimant's supervisor completed a "supervisor's investigation report" on June

11, 2009. In his report, the supervisor wrote as follows: "There was no definitive 'accident' that occurred on this date— The symptoms are believed by the originator to be from a previous accident a year ago."

¶ 19 In mid-June 2009, the claimant filed two applications for adjustment of claim. One application alleged that his current condition of ill-being was caused by the March 12, 2008, accident, and the other alleged that his condition of ill-being was caused by a May 11, 2009, repetitive trauma injury.

¶ 20 The MRI ordered by Dr. Bland was taken on June 16, 2008. The MRI showed that there was mild L4-L5 and L5-S1 degenerative disc and facet disease. In addition, the MRI report stated that there was "underlying mild diffuse disc bulges" and "a left paracentral/neuroforaminal broad-based disc protrusion present at the left L5-S1 level which causes mass effect on the left S1 nerve root." The report concluded that the disc protrusion was "likely the etiology of the patient's clinical symptomatology." Dr. Bland referred the claimant to Dr. William Payne for further consultation.

¶ 21 The claimant first saw Dr. Payne on July 8, 2009. The claimant filled out a patient history form and reported back and leg pain since March 2008. He wrote that his injury occurred when he "fell approx 2 feet through a metal grate then fell backwards over retaining wall." The patient history form asked the claimant to state whether his back and leg pain was aggravated by his job, and he wrote: "Aggravated because of constant bending - lifting - crawling under vehicles."

¶ 22 Dr. Payne's office visit notes indicate that the claimant reported that he had experienced mostly left buttock, hip, and thigh pain since the March 2008 accident. The claimant reported that the pain was sharp down the back of his leg and that he had "bouts two to three times a year where it gets very severe and puts him down for a few days." Dr. Payne diagnosed the claimant with "lumbar radiculopathy" and believed that he would benefit from epidural steroid injections. Dr. Payne referred the claimant to Dr. Western for the injections.

¶ 23 The claimant saw Dr. Western on September 1, 2009. Dr. Western noted in his report that the claimant was in "quite a bit of discomfort" and he discussed the option of removing him from work to help decrease his pain level. Dr. Western reported that the claimant was hesitant to be removed from work because "he really cannot afford to do that." The claimant, however, followed the doctor's advice and stayed off work and has not had any income since September 1, 2009.

¶ 24 The claimant underwent two epidural steroid injections, the first on September 18, 2009, and the second on September 24, 2009. The injections did not provide any relief from his pain. When the epidural steroid injections failed, Dr. Payne recommended an L5/S1 microdiscectomy for the L5/S1 disc herniation, and he kept the claimant off work.

¶ 25 At the arbitration hearing, Dr. Payne testified by way of an evidence deposition. Dr. Payne testified that the March 2008 workplace accident could have caused the claimant's herniated disc that is apparent on the MRI, and he opined that, to a reasonable degree of medical certainty, the March 12, 2008, accident continued to contribute to the claimant's

current symptoms and his need for the microdiscectomy. Dr. Payne testified that it was hard for him to say whether the claimant's work activities after March 12, 2008, would be a contributing cause of the claimant's need for the microdiscectomy. He did believe, however, that the claimant's work activities since March 12, 2008, could have aggravated the symptoms caused by the herniated disc. He explained that the symptoms from a disc herniation will wax and wane and that the claimant's work activities could aggravate his back. He believed that the March 12, 2008, accident was the more probable cause for the microdiscectomy than the claimant's repetitive work activities. He testified: "I would say the relationship with his fall, the onset of back pain and leg pain would all tell me that the inciting event was the fall."

¶ 26 In support of his opinion, Dr. Payne noted that the claimant had some symptoms that have been consistent in their location in the back and down the same part of the leg since the March 2008 accident. This indicated to Dr. Payne that the same nerve root has been irritated the entire time and that the claimant's symptoms have gotten better and have gotten worse multiple times. He explained that the claimant's calf and thigh pain was radicular pain which was consistent with an L5-S1 disc protrusion arising from the work-related accident.

¶ 27 According to Dr. Payne, the claimant's improvement over a two-month period after the accident up to June 2, 2008, was not significant. He testified that he would expect nine out of ten people with a herniated disc to get better with no operative treatments and that the claimant's flare-ups after his initial improvement were related to the herniated disc. Dr.

Payne believed that the claimant's therapy records showed only temporary relief from the pain.

¶ 28 Dr. Payne acknowledged that on May 10, 2009, the claimant bent over to pick something up and experienced increased low back pain, and he acknowledged that this event could have been a causative factor in the development of the claimant's current condition. Also, the dog washing and other bending over events could have been contributing factors to his current condition. However, Dr. Payne opined that the onset of pain as of May 10, 2009, was just a flare-up of the pre-existing condition that related back to the work-related accident. He explained that the accident could have set up the claimant so that any activity like bending over in the shower could have caused an excruciating kind of pain. He ultimately concluded that it was more likely true than not that the condition for which he recommended surgery was caused by the March 12, 2008 accident.

¶ 29 At the conclusion of the Rule 19(b) expedited hearing, the arbitrator found that the claimant's testimony was credible. The arbitrator found that the claimant failed to prove a work-related, repetitive trauma accident that manifested itself on May 11, 2009. However, the arbitrator found that the claimant sustained a workplace accident on March 12, 2008, which caused an L5-S1 herniated disc and that the accident "continues to be the cause of [the claimant]'s current condition, disability[,], and need for an L5/S1 microdiscectomy." The arbitrator awarded the claimant TTD benefits as a result of his condition of ill-being, ordered the employer to pay \$11,619.68, for reasonable and necessary medical expenses, and ordered

the employer to authorize and pay for the claimant's microdiskectomy as recommended by Dr. Payne. The employer appealed the arbitrator's decision to the Commission, and the Commission reversed the decision and denied the claimant benefits.

¶ 30 In reversing the arbitrator, the Commission noted that the claimant testified that he experienced bouts of pain so severe that he missed work and complained of intermittent flare ups that traced back to the March 12, 2008, accident. The Commission found it significant, however, that after the work-related injury, the claimant received medical treatments only until June 2, 2008. On that date, the claimant reported to his treating physician that he no longer had pain in his shoulder and only had occasional pain in his back. The Commission found that the June 2, 2008, doctor visit was the last medical treatment that was related to the March 2008 work accident. In June 2008, he was discharged from physical therapy after he attended four of eight scheduled physical therapy sessions and had not gone back to physical therapy since May 8, 2008. The Commission, therefore, found that the claimant had reached MMI as of June 2, 2008.

¶ 31 The Commission further noted that after June 2, 2008, the claimant did not seek any medical attention until May 11, 2009, and it found that none of the claimant's employment records indicate that he was excused from work due to back pain during this time. The Commission found, "after considering the totality of the medical evidence before it," that there was "no evidence to support [the claimant]'s claim of continuing back pain attributable to his March 12, 2008, accident." The Commission stated that, with respect to the claimant's

most recent complaints of pain, he failed to "demonstrate any relationship between said pain and his March 12, 2008, accident." The Commission noted that, on May 11, 2009, the claimant presented for treatment with complaints of pain in his low back, but there was no evidence that the "renewed complaint of low back pain was an aggravation of the March 12, 2008, accident."

¶ 32 The Commission noted that the records from the claimant's May 11, 2009, doctor's visit indicate that he reported that he squatted down to pick something up and found it difficult to get up from that position. He complained of pain in his left low back and left lower extremity since then. The Commission noted that the records do not mention that the claimant reported that he had been clearing trees the day before and do not mention his attempt to wash his dog. In addition, the Commission noted that the records indicated that the claimant was complaining of back pain at this time, but during his testimony, he testified only about discomfort in his leg during this time. The Commission stated that the records from the claimant's follow up visit on May 27, 2009, indicated that the claimant told his medical providers that his pain was a flair up of back pain that was originally the result of the March 2008 injury, but the records do not reference "his May 10, 2009, complaints of pain following his inability to rise from a squatting position."

¶ 33 The Commission also noted that the claimant's June 5, 2009, injury report that he filled out indicated that his injury was caused by the repeated bending, lifting, climbing, and crawling under vehicles as a mechanic, not from clearing trees.

¶ 34 Finally, the Commission noted that on October 18, 2009, the claimant went to the emergency room with a ruptured disc. The notes from the emergency room state that the onset of the pain occurred two days earlier. The Commission stated: "Notice is taken that at this time [the claimant] was undergoing physical therapy *** to address complaints of low back pain that radiated into his left lower extremity, physical therapy that was ordered only after [the claimant]'s May 11, 2009, injury." In denying the claimant benefits, the Commission concluded as follows:

"The Commission finds that [the claimant] undoubtedly experienced low back pain on or about May 11, 2009. The Commission, however, cannot find that this pain is attributable to his March 12, 2008, accident based on the presented evidence. The Commission finds that it is more likely than not that [the claimant]'s current condition of ill-being is the result of his attempt to wash his dog on May 10, 2009."

¶ 35 One commissioner dissented from the Commission's decision. The dissenting commissioner believed that the majority overlooked the claimant's uncontradicted testimony that his job promotion to a mechanic after the March 2008 accident allowed him and motivated him to continue working despite his constant pain.

¶ 36 The dissenter also wrote that the majority ignored the claimant's testimony that he did not return for any treatments between June 2, 2008, and May 2009, despite ongoing pain, because his treating physician told him that the only treatment that was available was physical therapy because workers' compensation "wouldn't okay" an MRI. In addition, the

majority ignored the claimant's testimony that when his left-side symptoms flared up in May 2009, the initial flare-up was due to his work activities involving the clearing of trees for approximately seven hours with no breaks. "It was only after this work-related flare-up that [the claimant] experienced two additional episodes of radiating leg pain at home while attempting to give his dog a bath and bending to pick up soap in the shower." The dissent found it particularly significant that when the claimant resumed care following the May 2009 flare-up, he consistently informed his medical providers that the initial cause of his pain was the March 2008 work accident.

¶ 37 Finally, the dissent maintained that the majority ignored the fact that the only physician who addressed the causation issue, Dr. Payne, testified that the claimant's March 12, 2008, work accident brought about the need for the microdiscectomy he recommended. Dr. Payne, a board certified orthopedic surgeon, did not find it unusual that the claimant experienced subjective improvement within two months of the accident, despite the disc herniation. The dissent stated: "[The employer] could have obtained a contrary opinion from a Section 12 examiner but elected not to do so."

¶ 38 The claimant appealed the Commission's decision to the circuit court. The court entered a judgment confirming the Commission's decision, and the claimant now appeals the circuit court's judgment.

¶ 39

ANALYSIS

¶ 40 The claimant first argues that the Commission's finding that he failed to prove that

his current condition of ill-being is causally related to the March 12, 2008, accident is against the manifest weight of the evidence. We agree.

¶ 41 To establish causation under the Act, a claimant must prove that some act or phase of his employment was a causative factor in his ensuing injury. *Land and Lakes Co. v. Industrial Comm'n*, 359 Ill. App. 3d 582, 592, 834 N.E.2d 583, 592 (2005). It is not necessary to prove that the employment was the sole causative factor or even that it was the principal causative factor, but only that it was a causative factor. *Republic Steel Corp. v. Industrial Comm'n*, 26 Ill. 2d 32, 45, 185 N.E.2d 877, 884 (1962). Whether a causal connection exists between a claimant's condition of ill-being and his employment is an issue of fact to be decided by the Commission. *Tower Automotive v. Illinois Workers' Compensation Comm'n*, 407 Ill. App. 3d 427, 434, 943 N.E.2d 153, 160 (2011). The Commission's findings with respect to factual issues are reviewed under the manifest weight of the evidence standard. *Id.*

¶ 42 "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." *City of Springfield v. Illinois Workers' Compensation Comm'n*, 388 Ill. App. 3d 297, 315, 901 N.E.2d 1066, 1081 (2009). The appropriate test is not whether this court might have reached the same conclusion, but whether the record contains sufficient evidence to support the Commission's determination. *R & D Thiel v. Illinois Workers' Compensation Comm'n*, 398 Ill. App. 3d 858, 866, 923 N.E.2d 870, 877 (2010). "In resolving questions of fact, it is within the

province of the Commission to assess the credibility of witnesses, resolve conflicts in the evidence, assign weight to be accorded the evidence, and draw reasonable inferences from the evidence." *Hosteny v. Illinois Workers' Compensation Comm'n*, 397 Ill. App. 3d 665, 674, 928 N.E.2d 474, 482 (2009). Resolution of conflicts in medical testimony is also within the province of the Commission. *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 206, 797 N.E.2d 665, 673 (2003).

¶ 43 On review, a 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 weight of the evidence." *Sisbro*, 207 Ill. 2d at 206, 797 N.E.2d at 673. However, despite the high hurdle that the manifest weight of the evidence standard presents, it does not relieve us of our obligation to impartially examine the evidence and to reverse an order that is unsupported by the facts. *Boom Town Saloon, Inc. v. The City of Chicago*, 384 Ill. App. 3d 27, 32, 892 N.E.2d 1112, 1117 (2008). In the present case, we believe that the Commission's finding on the issue of causation was against the manifest weight of the evidence. We believe that it is clearly apparent from the record that the claimant's condition of ill-being is causally connected to the March 12, 2008, workplace accident.

¶ 44 The only medical testimony on the issue of causation was presented by the claimant. The Commission found it significant that the claimant did not seek any medical treatments after June 2, 2008, until May 11, 2009, but Dr. Payne explained that this type of temporary

recovery is expected in nine out of ten patients with herniated discs. The flare-ups that came after June 2, 2008, were consistent with a herniated disc, and Dr. Payne found it significant that the type of pain that the claimant experienced was consistent, i.e., in the low back and down the same part of the leg since the March 2008 accident. Furthermore, we note that the claimant had not experienced any back or left leg pain prior to the accident. His medical records for treatments immediately following the work-accident show that he was tender along the L5-S1 and S1 joint on the left side immediately following the accident. The MRI that was taken in June 2009 showed a disc protrusion at the left L5-S1 level.

¶ 45 Dr. Payne believed that the claimant's therapy records showed only temporary relief from the pain and that the pain symptoms that the claimant experienced while washing his dog and when he bent over to pick something up on May 10, 2009, were further flare-ups of the pre-existing condition that related back to the work-related accident.

¶ 46 We acknowledge that the Commission is not bound to accept the claimant's expert's medical testimony merely because it is the sole medical testimony on the issue of causation. *Fickas v. Industrial Comm'n*, 308 Ill. App. 3d 1037, 1042, 721 N.E.2d 1165, 1169 (1999). However, the Commission cannot *arbitrarily* reject the sole medical testimony on the causation issue either. (Emphasis added.) *Id.* In the present case, the Commission did not discuss Dr. Payne's testimony or offer any basis to discredit it. We believe that the Commission's implied rejection of Dr. Payne's medical opinion was arbitrary because there is nothing in the record to suggest that he misunderstood the claimant's medical history,

relied on incorrect facts, or otherwise gave unreliable or inconsistent medical testimony. The Commission did not offer a basis for discrediting his testimony, and our review of the record finds no basis.

¶ 47 Dr. Payne testified that the March 12, 2008, accident set up the claimant so that day-to-day activities could cause the pain symptoms he experienced on May 10, 2009. Nothing in the record supports a finding that cutting down trees, dog washing, or bending over in the shower are events that broke the causal connection to the original March 12, 2008, accident.

¶ 48 In *Teska v. Industrial Comm'n*, 266 Ill. App. 3d 740, 640 N.E.2d 1 (1994), the claimant injured his back in a workplace accident and underwent surgery on his spine. After the surgery, his condition improved but he still continued to experience numbness and pain in his neck, shoulder, and left arm. While bowling, he experienced a sharp pain in his neck that radiated into his left arm. He subsequently underwent a second surgery. The Commission denied the claimant benefits for the second surgery, finding that his condition of ill-being was the result of an intervening accident (bowling). On appeal, the *Teska* court reversed the Commission's decision as being contrary to the manifest weight of the evidence. *Id.* at 740-41, 640 N.E.2d at 2.

¶ 49 The court noted that "[e]very natural consequence that flows from the injury which arose out of and in the course of the claimant's employment is compensable under the Act, unless caused by an independent intervening accident." *Id.* at 742, 640 N.E.2d at 3. In overturning the Commission's decision, the court noted that the claimant's condition "would

not have progressed to the point it did but for his original work-related accident." The court stated: "Merely because claimant experienced an upsurge of neck pains while bowling *** does not mean the causal connection was broken." *Id.* at 742-43, 640 N.E.2d at 4.

¶ 50 In the present case, the Commission found that the claimant had fully recovered from the March 12, 2008, accident by June 2, 2008, but the evidence supporting the Commission's finding is illusory. The claimant testified that physical therapy did help him to the point that he could return to work, but he continued to experience some level of pain. He testified that he complained of the back pain after June 2, 2008, to his supervisor, but he continued to work. Some days were worse than others. On May 10, 2009, he experienced intense back and left leg pain while cutting trees, while washing his dog, and again while bending over to pick up soap. As the court concluded in *Teska*, merely because he experienced an upsurge of back and leg pains while washing his dog or bending over does not mean that the causal connection was broken.

¶ 51 The Commission believed that it was significant that when the claimant filled out an injury report on June 5, 2009, he reported that the injury was caused by repeated bending, lifting, climbing, and crawling under vehicles as a mechanic. The Commission, however, ignored the testimony of Dr. Payne who specifically opined that these activities could aggravate the claimant's condition caused by the March 2008 work-related accident. Also, the Commission ignored the report filled out by the claimant's supervisor on June 11, 2009, who wrote that "[t]here was no definitive 'accident' that occurred on this date – The

symptoms are believed by the originator to be from a previous accident a year ago."

¶ 52 Contrary to the Commission's conclusion, the claimant's medical records are not inconsistent with respect to the consistency of the claimant's experience of pain since the March 12, 2008, accident. When the claimant returned to Harper on May 11, 2009, she wrote that he came in for "recurrence of back pain" and that he "had the original injury last year and has some intermittent flares since then but nothing bad as now." When the claimant saw Dr. Bland on May 27, 2009, he wrote: "This is originally the result of a work comp injury March 12th of last year." We agree with the dissenting commissioner who found it significant that when the claimant resumed care following the flare-up in May 2009, the claimant consistently informed his medical providers that the initial cause of his pain was the March 2008 work accident.

¶ 53 The claimant did not suffer from back or leg pain prior to the March 12, 2008, accident, and since that accident he has experienced flare-ups of pain consistent with the original accident. When the record is viewed in its entirety, it is clearly apparent that the claimant's condition of ill-being is causally connected to the March 12, 2008, workplace accident. The Commission's conclusion otherwise is contrary to the manifest weight of the evidence, and we reverse. See, *Phillips v. Industrial Comm'n*, 187 Ill. App. 3d 704, 543 N.E.2d 946 (1989) (Commission's finding that the claimant's nerve injury in leg was not causally connected to her work-place accident was contrary to the manifest weight of the evidence). "While we are not easily moved to set aside a Commission's decision on a factual

question, we will not hesitate to do so where the clearly evident, plain, and indisputable weight of the evidence compels an apparent, opposite conclusion." *Montgomery Elevator Co. v. Industrial Comm'n*, 244 Ill. App. 3d 563, 567, 613 N.E.2d 822, 825 (1993).

¶ 54 Because we reverse the Commission's decision with respect to the March 12, 2008, accident, we need not address the claimant's alternative argument that his condition of ill-being is causally connected to a repetitive trauma injury that manifested itself in May 2009.

¶ 55 CONCLUSION

¶ 56 For the foregoing reasons, we reverse the Commission's findings on the issue of causation and remand this case to the Commission for further proceedings consistent with this decision.

¶ 57 Reversed and remanded.