



that his current condition of ill-being was causally related to his alleged accident, or that he provided the employer with timely notice of his alleged accident. On review, the Workers' Compensation Commission (Commission) made clarifications to the arbitrator's decision but otherwise affirmed and adopted that decision.

¶ 3 On judicial review, the circuit court of Christian County confirmed the Commission. Claimant appeals, arguing the Commission erred in (1) finding he failed to provide the employer with timely notice of his alleged accident, (2) denying admission of medical opinion testimony, (3) finding he failed to prove he sustained accidental injuries that arose out of and in the course of his employment, and (4) finding his work for the employer did not expose him to risks greater than those faced by the general public. We affirm on the basis that claimant failed to provide the employer with timely notice.

¶ 4 I. BACKGROUND

¶ 5 The parties are familiar with the evidence presented and we discuss only those facts necessary to the resolution of this appeal. The record shows claimant worked as a finance manager for the employer, an automobile dealership. He began working for the employer in 2000 and described his work from that time until approximately October 2006 as being "very relaxed." Claimant testified the employer's other managers were a "very enjoyable group to work with" and stated they worked together as a "well oiled machine."

¶ 6 In October 2006, the employer hired a new general manager, Dean Durham. Claimant testified at length regarding his increased stress following Durham's arrival. He noted Durham implemented changes at the dealership, including a new management team that claimant felt was inexperienced. Claimant asserted he experienced a decrease in his income, which he attributed to

Durham's changes in procedure. He described Durham as being like a "drill sergeant" and testified he experienced stress due to his decreased income, fear of being fired, and Durham's management style.

¶ 7 At arbitration, claimant presented the testimony of Jeremy Brandt, the employer's secondary or sub prime finance manager; Dave Hawkins, one of the employer's salesmen; and claimant's wife, Barbara Estes, who also worked for the employer. Each witness described increased stress at the employer's dealership following Durham's arrival. The employer presented the testimony of Judy Vincent, its office manager, who disagreed with testimony that Durham had an overbearing management style and described the car business in general as being stressful.

¶ 8 On Friday, January 26, 2007, claimant attended a manager's meeting at work. He testified the meeting "turn[ed] into a major stress argument situation" and he and Durham got into a heated conversation. Claimant testified he started to feel sick to his stomach, began sweating profusely, and felt "out of it." Claimant told Brandt he was not feeling well and Brandt recalled that claimant began sweating "real bad," looked horrible, and stated he did not feel well. Following the meeting, claimant returned to his office where Hawkins was waiting for him to discuss a potential deal. Claimant testified he was looking at his computer screen when everything went "blank" with his eyesight and his left hand began jerking around. Hawkins agreed claimant "blanked out," was "clammy looking," and paused for approximately 20 seconds in the middle of their conversation.

¶ 9 Claimant recalled talking with Barbara and some of the other managers about going to the hospital but, instead, decided to take a lunch break with Barbara. While at lunch, claimant had difficulty driving and the jerking in his left hand worsened. Claimant then sought medical care at

the emergency room of his local hospital. The same date, he was transferred to Memorial Medical Center in Springfield, Illinois (Memorial), and admitted with a diagnosis of a "right internal capsular stroke." While hospitalized, claimant suffered "[r]ecurrent strokes in mid brain as well as extension of the previous stroke." Following his discharge, claimant was admitted to Memorial's rehabilitation unit and received therapy. He received follow-up care from his family physician.

¶ 10 Claimant testified, before being hospitalized on January 26, 2007, he returned to the employer's dealership and reported that he had a stroke and was not coming back in to work. Brandt agreed that, later in the day on January 26, he and the other managers learned claimant had suffered a stroke. Vincent acknowledged she learned claimant had suffered a stroke within 45 days of his alleged accident date. However, she denied that claimant ever told her his stroke was caused by his work environment or that she learned he was alleging his stroke was work related within that same 45-day time frame. According to Vincent, any injury at the employer's dealership had to be reported to the office and an accident report would be filled out. She never filled out an accident report for claimant.

¶ 11 Barbara identified an employee initial disability claim form, dated February 6, 2007. The form stated claimant had suffered a stroke and boxes were checked indicating his disability was neither the result of an accident nor work related. Barbara testified she filled the form out with Vincent's assistance. She stated Vincent checked the box indicating claimant's stroke was not related to his employment. Barbara testified at that time, she had no idea what was going on and did not "even know it was workman's comp or anything."

¶ 12 On March 25, 2010, the arbitrator issued his decision, finding claimant failed to prove he

sustained an accidental injury that arose out of and in the course of his employment. He also found claimant failed to give the employer timely notice of his alleged work-related accident. The arbitrator noted that, although the employer knew claimant suffered a stroke within hours of the incident occurring, "the evidence [was] equally clear that [the employer] had no knowledge of [claimant's] stroke being allegedly causally related to his work activities." On November 5, 2010, the Commission clarified portions of the arbitrator's decision, but otherwise affirmed and adopted that decision. On October 7, 2011, the circuit court confirmed the Commission's decision.

¶ 13 This appeal followed.

¶ 14 II. ANALYSIS

¶ 15 On appeal, claimant argues the Commission erred in finding he failed to provide the employer with timely notice of his alleged accident. Specifically, he contends the employer was aware of all known and relevant facts within the required statutory time frame, including claimant's job-related stress and that he suffered a stroke. Claimant also argues employer failed to show that it was prejudiced by defective notice.

¶ 16 Under the Act, a claimant must give notice of an accident to the employer "as soon as practicable, but not later than 45 days after the accident." 820 ILCS 305/6(c) (West 2006). Further, "[n]o defect or inaccuracy of such notice shall be a bar to the maintenance of proceedings on arbitration or otherwise by the employee unless the employer proves that he is unduly prejudiced in such proceedings by such defect or inaccuracy." 820 ILCS 305/6(c) (West 2006). The purpose of the Act's notice requirement "is to enable employers to investigate alleged accidents," and a claimant has complied with the Act when the employer possesses known facts

related to the accident within the relevant 45-day time frame. *S & H Floor Covering, Inc. v. Workers' Compensation Comm'n*, 373 Ill. App. 3d 259, 264-65, 870 N.E.2d 821, 825 (2007). On review, the Commission's notice findings will not be disturbed unless they are against the manifest weight of the evidence. *S & H Floor Covering, Inc.*, 373 Ill. App. 3d at 264, 870 N.E.2d at 825.

¶ 17 Here, the Commission relied upon this court's decision in *White v. Workers' Compensation Comm'n*, 374 Ill. App. 3d 907, 873 N.E.2d 388 (2007), to support its finding that claimant failed to provide the employer with timely notice of his alleged work-related accident. In that case, we determined the Commission's finding that the employer lacked notice was not against the manifest weight of the evidence where, although the employer knew within the relevant time frame that the claimant was injured, the record failed to show appraisal of industrial injuries and, instead, tended to show the opposite. *White*, 374 Ill. App. 3d at 911, 873 N.E.2d at 391. In so holding, we emphasized the claimant "completed a sickness/accident form on which a box was checked stating that his back and upper extremity conditions were *not* work related." (Emphasis in original.) *White*, 374 Ill. App. 3d at 911, 873 N.E.2d at 391. We noted the purpose of the Act's notice requirement was "to enable the employer to investigate the employee's alleged industrial accident" but, under the facts presented, the employer "had no basis for knowing that any such accident existed to investigate." *White*, 374 Ill. App. 3d at 911, 873 N.E.2d at 391.

¶ 18 Additionally, this court found it was unnecessary to address whether the employer suffered undue prejudice because "the prejudice inquiry does not pertain unless some notice was given in the first place" and the case at issue involved "a lack of timely notice altogether" rather than "defective notice." *White*, 374 Ill. App. 3d at 911, 873 N.E.2d at 392. We concluded "an

employer's mere knowledge of 'some type of injury' does not establish statutory notice—especially where \*\*\* the claimant submits a form stating that his conditions are not work related." *White*, 374 Ill. App. 3d at 911, 873 N.E.2d at 392.

¶ 19 This case is factually similar to *White*. Although the employer was aware that claimant suffered a stroke on January 26, 2007, his alleged accident date, it was not aware of any claimed work-related injury within the statutory time frame. Moreover, on February 6, 2007, claimant submitted a claim form for insurance benefits in connection with his stroke. A box on the form was checked to indicate claimant's stroke was not caused by his employment. Although claimant's wife testified Vincent, the employer's office manager, was the one who checked the box at issue, she acknowledged that she and Vincent prepared the form together. Like in *White*, information provided to the employer in this case indicated claimant's stroke was unrelated to his employment. Further, because there was a lack of notice rather than defective notice, it is unnecessary to address whether the employer suffered prejudice.

¶ 20 Evidence in the record supports the Commission's decision that claimant failed to provide the employer with timely notice of a work-related accident. The Commission's notice finding was not against the manifest weight of the evidence. Given this holding, it is unnecessary to address claimant's remaining contentions on appeal. See *S & H Floor Covering, Inc.*, 373 Ill. App. 3d at 265, 870 N.E.2d at 825 ("The giving of notice under the Act is jurisdictional and a prerequisite of the right to maintain a proceeding under the Act").

¶ 21

### III. CONCLUSION

¶ 22 For the reasons stated, we affirm the circuit court's judgment.

¶ 23 Affirmed.