2015 IL App (1st) 141000WC-U

FILED: August 7, 2015

NO. 1-14-1000WC

IN THE APPELLATE COURT

OF ILLINOIS

FIRST DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

| | | |
|---|---|---|
| FEDERAL-MOGUL CORP.<br><br>Appellee,<br><br>v.<br><br>THE ILLINOIS WORKERS' COMPENSATION COMMISSION *et al.* (Edgar Castellanos, Appellants). | )<br>)<br>)<br>)<br>)<br>)<br>)<br>)<br>) | Appeal from<br>Circuit Court of<br>Cook County<br>No. 13L50172<br><br><br>Honorable<br>Robert Lopez-Cepero,<br>Judge Presiding. |

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

**ORDER**

¶ 1 *Held:* (1) The Commission's finding that claimant sustained a repetitive trauma injury was not against the manifest weight of the evidence.

(2) The Commission's find that claimant's current condition of ill-being was causally connected to the work accident was not against the manifest weight of the evidence.

¶ 2 On December 6, 2010, claimant, Edgar Castellanos, filed an application for adjustment of claim pursuant to the Illinois Workers' Compensation Act (Act) (820 ILCS 305/1 to 30 (West 2008)), seeking benefits from the employer Federal Mogul. He alleged repetitive

trauma while operating a bagging machine resulting in injuries to his upper back, neck, and left hand.

¶ 3 Following a December 22, 2011, hearing, the arbitrator concluded that claimant had not sustained an accidental work injury and denied benefits.

¶ 4 On review, the Illinois Worker's Compensation Commission (Commission), with one commissioner dissenting, reversed the decision of the arbitrator, finding that claimant had sustained a work-related repetitive trauma injury and that his condition of ill being was causally related to the accident. The Commission awarded claimant 57 weeks of temporary total disability (TTD) benefits, medical expenses, and prospective medical treatment in the form of an anterior cervical discectomy and fusion at C6-7 as recommended by his treating physician.

¶ 5 On judicial review, the circuit court of Cook County reversed the Commission's decision and reinstated the decision of the arbitrator. This appeal followed.

¶ 6 I. BACKGROUND

¶ 7 The following factual evidence relevant to this appeal was elicited at the December 22, 2011, arbitration hearing.

¶ 8 Claimant testified that at the time of the accident, he had worked for the employer for 23 years. In the 2 to 2 1/2 years preceding the accident, claimant worked on a "bagging machine" where he placed small items, such as sealants and gaskets used in automobile engines, into plastic bags which were then sealed by the bagging machine. Specifically, claimant testified that the parts were brought to his work area in boxes approximately 30 to 35 inches in height. Claimant would retrieve the parts from the boxes and place them on a wheeled cart next to the bagging machine. Claimant sat on an adjustable ergonomic chair approximately 24 inches from the edge of the bagging machine, first reaching to his right to collect the needed parts from the

cart, then placing the parts into a plastic bag, and finally reaching forward to press two buttons located at waist level on the front of the machine to begin the sealing process. Claimant had been provided the ergonomic chair due to permanent work restrictions resulting from a prior low back injury in 2004. Claimant explained that after the machine sealed the bags, the machine would drop the sealed bags into a bucket located on the floor which claimant then moved when full. According to claimant, he had a quota of 200 bags per hour throughout his 8-hour shift. This quota was set by his supervisor. Claimant testified that he was "at quota or a little below sometimes," but he had never been disciplined for failing to meet his quota. Claimant further stated that throughout the bagging and sealing process, he worked at "a steady pace" in a "continuous motion all day."

¶ 9 Claimant testified that he started experiencing pain in his neck in June 2010. Specifically, he stated, "it started with a pain in my neck, I was working and I just felt like a pop in my neck, and then I just kept on working." According to claimant, he told his supervisor, Scott Thompson, but Thompson never asked him if he wanted medical treatment. Claimant testified that he continued working through the months of June and July, and into August but the pain in his neck did not improve and he developed a tingling sensation in his left hand. Claimant stated that after he initially reported the incident to Thompson, he "kept complaining to him about it."

¶ 10 On August 4, 2010, claimant completed an "employee report of injury/accident form" describing his injury as "pain in my upper back between my shoulder blades." He further noted that the "pain starts and then gradually goes away as I take my medicine but comes back" and "when I'm sitting down or standing I have to stretch to get to the button consist[e]ntly." He listed June 16, 2010, as the date of injury, although he later amended the date to June 15, 2010,

after work records indicated he was not at work on June 16, 2010. (On June 16, 2010, claimant was off work due to problems relating to his 2004 lumbar injury.) Claimant testified that Thompson required him to fill out the accident form prior to seeing the company nurse. According to claimant, when he saw the nurse in August 2010, she asked him what kind of pain he was experiencing and the location of the pain, but she did not offer him any treatment or advice and told him to go see his own doctor.

¶ 11 Claimant sought treatment with Dr. Howard An, an orthopedic surgeon, who in 2004, performed a lumbar laminectomy and fusion on him. He first saw Dr. An for the injury at issue here on November 19, 2010. On that date, Dr. An noted that claimant had experienced increasing symptoms of neck pain and pain going down his left arm over the last six months. He noted claimant had "significant tenderness in the lower cervical region into the medial aspect of the left scapula"; "a slightly decreased brachial radialis reflex on the left compared to the right side"; and "pain in the upper and mid thoracic region that is quite significant as well." Dr. An further noted the x-ray of claimant's spine showed degenerative changes at C5-6 and C6-7 but no instabilities. Dr. An's impression was that claimant "ha[d] cervical radicular symptoms probably associated with cervical spondylosis." Dr. An restricted claimant from work, ordered magnetic resonance imaging (MRI) of his spine, and referred him to Dr. April Fetzer, a physical medicine specialist, for selective nerve root injection.

¶ 12 At a follow-up appointment on December 10, 2010, Dr. An noted claimant's symptoms had not improved. Dr. An further noted that claimant had been unable to obtain authorization for the requested MRI and that a referral to Dr. Fetzer was still recommended. According to claimant's testimony, Dr. An indicated he would not treat him without first obtaining an MRI. There is no evidence in the record that claimant ever saw Dr. Fetzer.

¶ 13 On January 21, 2011, claimant treated with Dr. Alexander J. Ghanayem, an orthopedic spine surgeon. According to Dr. Ghanayem's office note from that date, claimant reported he was a "bagger at some sort of warehouse who about seven months ago was doing something on a bagging machine when he felt a pop in his neck. He developed pain in the base of the neck and between the shoulder blades with numbness into the ulnar border of the left arm." Dr. Ghanayem noted that claimant underwent a prior lumbar fusion but had no prior cervical problems. He further noted the injury at issue here occurred in June 2010 and claimant stopped working in November 2010. Based on his physical examination of claimant, Dr. Ghanayem could not determine the source of his pain and recommended a cervical MRI. Claimant remained off work.

¶ 14 On February 2, 2011, claimant underwent an MRI which, according to the report, revealed "a disc herniation at C6-7 on the left with neurological compression." Dr. Ghanayem opined, "I believe this is the cause of his symptoms. This does make sense given his periscapular pain and pain in his arm. Given the onset of his symptoms, I believe it is related to his work activities." Dr. Ghanayem continued claimant's work restriction and ordered physical therapy.

¶ 15 By February 25, 2011, claimant had attended 10 physical therapy sessions but reported no improvement. At a follow-up appointment on March 9, 2011, Dr. Ghanayem noted claimant's lack of progress with physical therapy and ordered cervical epidural injections and an electromyography (EMG) study to check for peripheral compression of the nerve. On March 11, 2011, claimant received a cervical epidural steroid injection.

¶ 16 On March 18, 2011, claimant saw Dr. Jesse P. Butler, an orthopedic surgeon, for an independent medical evaluation at the request of the employer. Dr. Butler's letter of that same date states that "[t]he medical documentation is sparse and [it] is difficult to confirm a causal

relationship between the 'accident' and the source of pain. The injury was reported two months after the occurrence." Dr. Butler further noted that "[o]ngoing orthopedic treatment may be reasonable and necessary" but that he could not "comment on the type, frequency or duration for treatment without the imaging studies." Dr. Butler concluded that he had been unable to properly assess claimant without reviewing the imaging studies.

¶ 17 On March 28, 2011, claimant underwent an EMG. At a follow-up appointment on April 6, 2011, Dr. Ghanayem noted the EMG results were normal. However, he stated as follows:

> "At this point, we have explained to [claimant] that he has a positive cervical MRI showing compression at C6-7 on the left, symptoms that correlate with that, as well as an exam finding that correlates as well. The fact that the epidural gave him five days of relief is a good sign from a diagnostic standpoint. EMG was negative, which is the only inconsistency with all the other data that seems to point to the cervical spine being the root cause of his arm symptoms. Therefore, given his failure to control his symptoms nonsurgically, I have recommended an anterior cervical discectomy and fusion at the C6-7 level to him."

¶ 18 On May 3, 2011, Dr. Butler authored an addendum to his first report. He noted that he had reviewed claimant's February 2, 2011, cervical MRI that indicated "disc degeneration at C5-6 and C6-7" and "asymmetric left-sided foraminal stenosis at C5-6 and more severely at C6-7." In his opinion, the findings appeared to demonstrate a chronic condition rather than an acute disc herniation. Dr. Butler concluded that claimant might require an additional cervical

epidural steroid injection and if that was unsuccesful, an anterior cervical discectomy and fusion. However, he noted as follows: "I cannot say beyond a reasonable degree of medical and surgical certainty that there is a causal relationship between his 'accident' and reporting complaints/imaging findings. I find the delay in reporting the injury to be significant in finding no causal connection." According to Dr. Butler, claimant should have "known the importance of timely reporting and documentation" due to his prior lumbar injury.

¶ 19 On September 16, 2011, Dr. Butler authored a second addendum. He reported that he reviewed video surveillance of claimant standing while watering his yard in July 2011 and, based on the video, stated that claimant "exhibit[ed] no pain behavior or difficulty moving the cervical spine." Dr. Butler further noted that he reviewed two videos from June 2011 which depicted claimant riding a three-wheeled motorcycle. Dr. Butler had previously noted claimant denied riding a motorcycle. Dr. Butler wrote that in the video, claimant was "able to turn fully to the left and right checking traffic without pain behavior." Additionally, Dr. Butler indicated he reviewed claimant's job description. Based on this additional information, Dr. Butler concluded, "I do not feel the work responsibilities could have caused a cervical injury requiring fusion. There is no documentation of overhead activities or significant lifting requirements that would've placed his cervical spine at risk for injury."

¶ 20 Claimant testified that as of the date of arbitration, he continued to experience pain in his upper neck and left shoulder, and that his left hand tingles "all the time." He stated that some days are better than others and that he was taking Tramadol and Motrin for the pain. Claimant further testified that he has a three-wheeled motorcycle that he rides "maybe once a month" during the warm weather. According to claimant, the longest he has ridden his motorcycle since being off work has been 1/2 hour at a time. On direct-examination, claimant

testified he does not take passengers on his motorcycle, but on cross-examination, admitted he does take passengers occasionally.

¶ 21 In addition to the above, the following evidence was also admitted into evidence: (1) a surveillance video of claimant watering his yard and riding his three-wheeled motorcycle; (2) photographs of claimant riding his motorcycle; (3) a video depicting a woman working on the bagging machine to which claimant was assigned; and (4) photographs of the woman working on the bagging machine.

¶ 22 On January 31, 2012, the arbitrator filed her decision in the matter. She found that claimant failed to prove by a preponderance of the evidence that he sustained a compensable injury. She based her opinion on claimant's delay in completing the accident report; the fact that claimant did not mention his work activities were the cause of his symptoms until he filed his application for adjustment of claim; the video of a bagging machine operator which did not support claimant's description of his body movements during the bagging process; and claimant's error in asserting he was working on the date initially listed as the date of manifestation. Additionally, the arbitrator noted the history claimant provided to Dr. Ghanayem and Dr. Butler was more consistent with a specific injury rather than a repetitive trauma injury.

¶ 23 On January 29, 2013, the Commission, with one commissioner dissenting, filed its opinion reversing the decision of the arbitrator. The Commission found that claimant had sustained a work-related repetitive trauma injury and that his condition of ill being was causally related to the accident. The Commission awarded claimant 57 weeks of temporary total disability (TTD) benefits, medical expenses, and prospective medical treatment in the form of an anterior cervical discectomy and fusion at C6-7 as recommended by his treating physician.

¶ 24 In finding that claimant had proven a compensable injury, the Commission found

as follows:

> "The Commission finds the testimony of [claimant] to be credible. The job video supports [his] testimony that the job involved repetitive and relatively fast paced activities. Although the Arbitrator noted that the video of the job activities does not show the bagger must fully extend his or her arms, [claimant] testified to different body mechanics as he performed his duties. In particular [claimant] did not sit on the edge of the chair as he reached for the buttons. The Commission notes [claimant] may have been particularly susceptible to a cervical injury because of his previous lumbar condition. [Claimant] was under permanent restrictions and was not able to bend adequately at his lower back. He further testified that because of this limitation he had to stretch more at the upper back, putting greater strain on the cervical spine. [Claimant's] testimony was supported by the accident report and the causation opinion of Dr. Ghanayem.
>
> The Commission does not believe the delay in filing an accident report and the surveillance videos should defeat [claimant's] claim. First, the Commission notes that [claimant] informed his supervisor of the accident soon after it happened. [The employer] did not call [claimant's] supervisor as a witness to rebut [claimant's] testimony. That [claimant] continued to work and did not file an accident report until his pain had worsened to

> the point that he needed medical attention from [the employer's] nurse should not be held against him. Second, the Commission notes that delay in reporting spinal injuries is not uncommon. Often a claimant believes that he/she suffered merely a sprain/strain which would resolve naturally. However the pain and/or impairment worsens, prompting the worker to seek treatment some time after the actual injury."

In addition, the Commission noted that the surveillance videos did not contradict claimant's testimony in any material way and that the purpose of the videos was to show claimant did not suffer a condition of ill being in his cervical spine, when he "clearly has two herniated discs," confirmed by Dr. Ghanayem and Dr. Butler.

¶ 25 On April 1, 2014, the Cook County circuit court reversed the Commission's decision, finding it to be against the manifest weight of the evidence, and reinstated the decision of the arbitrator, denying claimant benefits. Specifically, the court noted that the Commission's description of claimant's job did not match claimant's testimony and that the Commission failed to explain why it found Dr. Ghanayem's causation opinion credible and not Dr. Butler's, which according to the court "prevent[ed] it from performing its duties on administrative review."

¶ 26 This appeal followed.

¶ 27 II. ANALYSIS

¶ 28 On appeal, claimant argues the Commission's award of benefits was not against the manifest weight of the evidence. In particular, he contends the evidence supports a finding that his work activities caused his injury. Claimant contends that, in reversing the Commission, the circuit court impermissibly usurped the Commission's fact-finding function, reweighed the

evidence, and substituted its own judgment.

¶ 29 On appeal, we review the decision of the Commission rather than the circuit court's judgment. *Dodaro v. Illinois Workers' Compensation Comm'n*, 403 Ill. App. 3d 538, 543, 950 N.E.2d 256, 260 (2010).

¶ 30 "To obtain compensation under the Act, a claimant bears the burden of showing, by a preponderance of the evidence, that he has suffered a disabling injury which arose out of and in the course of his employment." *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 203, 797 N.E.2d 665, 671 (2003). " 'In the course of employment' refers to the time, place and circumstances surrounding the injury" and "generally must occur within the time and space boundaries of the employment." *Id.* An injury "arises out of" employment when "the injury had its origin in some risk connected with, or incidental to, the employment so as to create a causal connection between the employment and the accidental injury." *Id.* at 203, 797 N.E.2d at 672. An employee who suffers a repetitive-trauma injury must meet the same standard of proof as an employee who suffers a sudden injury. *City of Springfield v. Illinois Workers' Compensation Comm'n*, 388 Ill. App. 3d 297, 313, 901 N.E.2d 1066, 1079 (2009). "[T]he employee must allege and prove a single, definable accident" that " 'manifests itself' " on a specific date. *White v. Workers' Compensation Comm'n*, 374 Ill. App. 3d 907, 910, 873 N.E.2d 388, 391 (2007) (quoting *Peoria County Belwood Nursing Home v. Industrial Comm'n*, 115 Ill. 2d 524, 530, 505 N.E.2d 1026, 1028 (1987)). "The phrase 'manifests itself' signifies 'the date on which both the fact of the injury and the causal relationship of the injury to the claimant's employment would have become plainly apparent to a reasonable person.' " *Id.* Further, "[t]here must be a showing that the injury is work related and not the result of a normal degenerative aging process." *Peoria County Belwood Nursing Home*, 115 Ill. 2d at 530, 505 N.E.2d at 1028.

¶ 31 "The determination of whether an injury arose out of and in the course of a claimant's employment is a question of fact for the Commission to resolve, and its finding in that regard will not be set aside on review unless it is against the manifest weight of the evidence." *Springfield Urban League v. Illinois Workers' Compensation Comm'n*, 2013 IL App (4th) 120219WC, ¶ 24, 990 N.E.2d 284. It is also the Commission's role "to resolve conflicts in the evidence, and this is particularly true with regard to medical-opinion evidence." *St. Elizabeth's Hospital v. Workers' Compensation Comm'n*, 371 Ill. App. 3d 882, 887, 864 N.E.2d 266, 271 (2007). "This court will not reject reasonable inferences of the Commission merely because we might have drawn a contrary inference on the particular facts." *Archer Daniels Midland Co. v. Industrial Comm'n*, 138 Ill. 2d 107, 119, 561 N.E.2d 623, 628(1990). "For a finding of fact to be contrary to the manifest weight of the evidence, an opposite conclusion must be clearly apparent." *Id.* In other words, "[t]he appropriate test is whether there is sufficient evidence in the record to support the Commission's finding, not whether this court might have reached the same conclusion." *Chicago Transit Authority v. Illinois Workers' Compensation Comm'n*, 2013 IL App (1st) 120253WC, ¶ 24, 989 N.E.2d 608.

¶ 32 Initially, we note that the employer disagrees with the standard of review outlined above. Instead, the employer cites *Cook v. Industrial Comm'n*, 176 Ill. App. 3d 545, 552, 531 N.E.2d 379, 384 (1988), for the proposition that an arbitrator is in the best position to evaluate the evidence, and thus, "in cases where the Commission has rejected the arbitrator's factual findings without receiving any new evidence, [a reviewing court] appl[ies] an extra degree of scrutiny to the record in determining whether there is sufficient support for the Commission's decision." While acknowledging a string of cases which disagree with *Cook*, the employer nevertheless asserts that "this Court should explicitly state *Cook* is the appropriate standard for

judicial review." We decline to do. As claimant points out, the "extra degree of scrutiny" standard is not the appropriate standard of review. See *Hosteny v. Illinois Workers' Compensation Comm'n*, 397 Ill. App. 3d 665, 675, 928 N.E.2d 474, 482-83 (2009) (noting that *Cook* misstates the appropriate standard of review and its "holding has since been repudiated in almost every reported case that has cited it"). Rather, "the Commission exercises original jurisdiction and is not bound by the arbitrator's finding." *R&D Thiel v. Illinois Workers' Compensation Comm'n*, 398 Ill. App. 3d 858, 866, 923 N.E.2d 870, 877 (2010).

¶ 33 Turning to the merits, claimant first asserts the evidence supports the Commission's conclusion that claimant sustained a repetitive trauma accidental work injury which manifested itself on June 15, 2010.

¶ 34 Claimant testified that his job required him to work at a "steady pace" and in a "continuous motion all day" placing the required parts into plastic bags, and pressing the buttons on the machine to seal the bag with the goal of meeting the quota of 200 bags per hour. The Commission found claimant's testimony credible and found that the work video further supported claimant's testimony as to the nature of his job. Although the woman in the work video did not appear to fully extend her arms, the Commission noted that claimant was required to sit all the way back in the chair due to his prior lumbar injury and permanent restrictions. Claimant's statement in the August 4, 2010, accident report, which notes that regardless of whether he is "sitting down or standing[, he] ha[s] to stretch to get to the button consist[e]ntly," supports the Commission's conclusion that due to his prior injury, claimant was unable "to bend adequately at his lower back" requiring him to "stretch more at the upper back" and put "greater strain on the cervical spine."

¶ 35 Claimant testified that he first noticed pain in his neck while working in June

2010. Specifically, he stated, "it started with a pain in my neck, I was working and I just felt like a pop in my neck, and then I just kept on working." He reported this to his supervisor. As noted by the Commission, the employer did not call claimant's supervisor to rebut this testimony. Over the next couple of months, claimant's neck pain did not dissipate and his left hand started tingling leading him to eventually seek treatment, first with the company nurse in August 2010 and then with Dr. An in November 2010. While both the arbitrator and the circuit court took issue with the fact that the accident report was not filled out by claimant until August 4, 2010, we note that the Commission specifically stated that it did "not believe the delay in filing the accident report *** should defeat [claimant's] claim." In particular, the Commission pointed out that (1) claimant reported the accident to his supervisor immediately after it happened and (2) it is not uncommon for an employee to delay reporting a spinal injury because he may initially believe he suffered a sprain or strain and not seek medical treatment until the pain gradually worsens.

¶ 36 We acknowledge that claimant apparently reported to Dr. Ghanayem and Dr. Butler that he felt a "pop" in his neck followed by pain that worsened over time—a history that, as the arbitrator noted, may be more indicative of a specific injury rather than a repetitive trauma injury. However, claimant testified—and the Commission found him credible—that he felt pain in his neck prior to feeling the "pop." Claimant also testified that his job duties required him to be in a "continuous motion all day," and he noted on the accident report the he had to consistently stretch to get to the button on the bagging machine. Based on this evidence, the Commission reasonably could have concluded that claimant's injury was a repetitive trauma injury caused by continuous stretching that arose out of and in the course of his employment. Thus, its decision was not against the manifest weight of the evidence.

¶ 37 Claimant next asserts that the evidence supported the Commission's determination

that his current condition of ill-being in his back was causally related to the work injury. "Whether a causal connection exists between a claimant's condition of ill-being and h[is] work accident is a question of fact to be resolved by the Commission, and its resolution of the matter will not be disturbed unless it is against the manifest weight of the evidence." *University of Illinois v. Industrial Comm'n*, 365 Ill. App. 3d 906, 913, 851 N.E.2d 72, 79 (2006).

¶ 38 Here, claimant testified he was performing his job duties when his neck began to hurt. Shortly thereafter, claimant felt a "pop" in his neck, and over the next couple of months, he developed a tingling sensation in his left hand. Dr. Ghanayem's office report from January 21, 2011, indicated that claimant was "doing something on a bagging machine [approximately seven months ago] when he felt a pop in his neck. He developed pain in the base of the neck and between the shoulder blades with numbness into the ulnar border of the left arm." Dr. Ghanayem noted claimant had a prior lumbar fusion but no prior cervical problems. Upon physical examination, Dr. Ghanayem noted that claimant complained of tenderness at the base of his cervical spine and into the rhomboid region bilaterally. He also documented decreased sensation in the ulnar border of claimant's forearm and hand. On February 2, 2011, Dr. Ghanayem noted that claimant's MRI revealed a disc herniation at C6-7 and, "[g]iven the onset of his symptoms, I believe it is related to his work activities." After a cervical epidural steroid injection provided claimant good relief, Dr. Ghanayem recommended an anterior cervical discectomy and fusion at C6-7.

¶ 39 In contrast, Dr. Butler stated that although claimant suffered from disc degeneration at C5-6 and C6-7, "I cannot say beyond a reasonable degree of medical and surgical certainty that there is a causal relationship between his 'accident' and reporting complaints/imaging findings. *I find the delay in reporting the injury to be significant in finding*

*no causal connection*." (Emphasis added.) Dr. Butler further indicated he had reviewed claimant's job description and job duty sheets and opined, "I do not feel the work responsibilities could have caused a cervical injury requiring fusion. There is no documentation of overhead activities or significant lifting requirements that would've placed his cervical spine at risk for injury."

¶ 40 According to the employer, Dr. Ghanayem's causation opinion is not credible as he lacked the requisite knowledge to offer a medical opinion regarding causation, whereas Dr. Butler's causation opinion was based on sufficient evidence. As mentioned above, it is the Commission's responsibility to resolve conflicts in the medical evidence. Here, Dr. Butler's opinion as to lack of causation was based on his belief that claimant waited two months to report the injury and on a job description and job duty sheets which were apparently provided to him. First, we note that the record before us does not contain claimant's job description or job duty sheets. Second, the Commission specifically noted that claimant "informed his supervisor of the accident soon after it happened" which is contrary to Dr. Butler's statement that claimant did not report the accident until two months after he sustained the injury. Further, the Commission found that claimant's delay in filling out a formal accident report was not fatal to his claim. The Commission explained it was not uncommon for employees to delay reporting spinal injuries because they often believe they have suffered a mere sprain or strain and only after the pain fails to dissipate or worsens does the employee seek medical treatment. Thus, the Commission essentially found Dr. Butler's medical opinion, which was based on a faulty assumption, was not credible. On the other hand, Dr. Ghanayem's medical opinion and claimant's testimony, supported a finding of causation. Based on the above, we cannot say that the Commission's finding of causation was against the manifest weight of the evidence.

¶ 41 Last, claimant asserts that the Commission properly awarded TTD benefits, medical expenses, and prospective medical care. The employer does not respond to claimant's arguments on these matters and the circuit court's reversal of the Commission's award was based on its determination that claimant failed to show a compensable injury. Thus, we reinstate Commission's award of 57 weeks' TTD benefits, medical expenses, and prospective medical treatment in the form of an anterior cervical discectomy and fusion at C6-7.

¶ 42 III. CONCLUSION

¶ 43 For the reasons stated, we reverse the judgment of the circuit court and reinstate the Commission's decision.

¶ 44 Judgment of the circuit court reversed. Commission's decision reinstated.