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2015 IL App (3d) 130871WC-U

Order filed April 8, 2015

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

MARTEN TRANSPORT,)	Appeal from the Circuit Court
)	of the Twelfth Judicial Circuit,
)	Will County, Illinois
Appellant,)	
)	
v.)	Appeal No. 3-13-0871WC
)	Circuit No. 13-MR-5
)	
ILLINOIS WORKERS' COMPENSATION)	Honorable
COMMISSION, <i>et al.</i> , (Cory Potts,)	Barbara Petrunaro,
Appellee).)	Judge, Presiding.

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

ORDER

- ¶ 1 *Held:* (1) the Commission's finding that the claimant's carpal tunnel syndrome was causally related to a work-related accident was not against the manifest weight of the evidence; (2) the Commission's award of temporary partial disability benefits, temporary total disability benefits, permanent partial disability benefits, and medical expenses was not against the manifest weight of the evidence.
- ¶ 2 The claimant, Cory Potts, filed an application for adjustment of claim under the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2008)), seeking benefits for injuries he

allegedly sustained while he was working for Marten Transport (employer). After conducting a hearing, an arbitrator found that the carpal tunnel syndrome in the claimant's right hand was causally related to a work-related accident that occurred on September 3, 2009, and awarded the claimant permanent partial disability (PPD) benefits, temporary partial disability (TPD) benefits, temporary total disability (TTD) benefits, and medical expenses. The employer appealed the arbitrator's decision to the Illinois Workers' Compensation Commission (the Commission). The Commission decreased the arbitrator's PPD award and unanimously affirmed and adopted the arbitrator's decision in all other respects. The employer then sought judicial review of the Commission's decision in the circuit court of Will County, which confirmed the Commission's ruling. This appeal followed.

¶ 3

FACTS

¶ 4 The claimant worked for the employer as an intermodal transport driver. His responsibilities included transporting trailers to rail yards and to customers' facilities. His job did not require him to do any loading or unloading.

¶ 5 The parties stipulated that, on September 3, 2009, the claimant sustained accidental injuries that arose out of and in the course of his employment. On that date, the claimant was making a delivery and fell backwards as he was climbing into a trailer. As he was falling, the claimant extended his right arm to brace for the fall. He fell on his right arm and back, with his right hand hitting the ground first. Immediately after the accident, the claimant felt severe pain in his right wrist and noticed swelling in that wrist.

¶ 6 Later that day, the claimant sought treatment at Bolingbrook Hospital's emergency room. An x-ray of the right wrist revealed a possible fracture. The claimant's wrist was splinted. He

was referred to orthopedic specialist and instructed to stay off work.

¶ 7 On September 9, 2009, the claimant began treating with Dr. Jonathan Wigderson, an orthopedic surgeon. At that time, claimant reported pain in his right wrist and at the base of the thumb on his right hand. Dr. Wigderson diagnosed a scaphoid fracture¹ of the right hand. Dr. Wigderson restricted the claimant from using his right upper extremity above shoulder level and told him to follow up in one week. The employer was unable to accommodate these restrictions.

¶ 8 The claimant followed up with Dr. Wigderson on September 16, 2009. At that time, Dr. Wigderson prescribed a thumb spica splint and restricted the claimant from using his right upper extremity. Dr. Wigderson also ordered an MRI of the right wrist, which was performed on September 21, 2009. The MRI revealed a "nondisplaced² fracture of the mid/proximal scaphoid *** with associated bone edema." Among other things, the MRI also showed: (1) "[n]ormal radiocarpal, intercarpal and midcarpal articulations, with normal visualized scapholunate and lunotriquetral interosseous ligaments"; (2) "[n]ormal distal radioulnar articulation [DRUJ], with normal volar and dorsal radioulnar ligaments"; and (3) "[n]ormal carpal tunnel with a normal median nerve, without signal or morphologic alteration."

¶ 9 The claimant followed up with Dr. Wigderson on September 23, 2009, complaining of numbness and tingling in his fingers. He returned to Dr. Wigderson on October 21, 2009. At that time, the claimant continued to complain of discomfort in the right wrist (which he

¹ The wrist is made up of eight separate small bones, called the carpal bones. The scaphoid bone is a carpal bone near the base of the thumb on the thumb side (radial side) of the wrist.

² In a "displaced" fracture, the bone snaps into two or more parts and moves so that the two ends are not lined up straight. In a "nondisplaced" fracture, the bone cracks either part or all of the way through but maintains its proper alignment.

characterized as "unchanged"). He also reported experiencing tingling in his wrist and fingers when he awakens. X-rays taken that day showed a healing fracture in good position. Dr. Wigderson removed the cast and instructed the claimant to continue using the thumb spica splint full-time. Although Dr. Wigderson released the claimant to sedentary work, he continued the claimant's restrictions of no use of the right hand. The claimant testified that the employer was unable to accommodate these restrictions.

¶ 10 The claimant was next seen by Dr. Wigderson on November 30, 2009. On that date, the claimant filled out a follow-up history form in which he noted moderate pain, intermittent stiffness, and weakness in his right wrist and thumb but denied experiencing any numbness or tingling. Dr. Wigderson's medical record of that visit reflects that "the only time [the claimant] notes discomfort is with wrist extension." The doctor also noted that the claimant denied experiencing any "paresthesias" (*i.e.*, abnormal sensations of numbness, tingling, prickling, or burning) in his right extremity. X-rays of the right wrist were taken and revealed a fracture line within the scaphoid, although Dr. Wigderson noted that the fracture line was "barely noted on one view." Dr. Wigderson continued the light duty restriction (including the restriction of no use of the right hand). However, the doctor discontinued use of the splint and encouraged the claimant to engage in a home exercise program.

¶ 11 The claimant followed up with Dr. Wigderson on December 30, 2009. At that time, the claimant reported that he was "doing better," although he stated that he experienced some tightness in the wrist when he moves it. He filled out a follow-up history form in which he denied experiencing any numbness. After reviewing x-rays taken on that date, Dr. Wigderson reported that the fracture line was "just barely noted" and "was almost missed." The doctor concluded that the claimant's right scaphoid fracture was "essentially healed." He returned the claimant to work full-duty effective January 4, 2010.

¶ 12 The Claimant returned to work full-duty as an intermodal transport driver on January 4, 2010. The claimant testified that, while performing his work duties at that time, he "would still get numb and tingly throughout the thumb area." On February 16, 2010, the claimant felt a "pop" in his right wrist and felt pain while he was using both hands to crank up the landing gear of a trailer at work.

¶ 13 Six days later, the claimant saw Dr. Anuj Puppala, Dr. Wigderson's partner. At that time, the claimant complained of numbness to his right wrist. Dr. Puppala's examination revealed "snuffbox"³ tenderness, tenderness over the scaphoid, and tenderness with extremes of dorsiflexion and ulnar and radial deviation. Dr. Puppala diagnosed the claimant with a possible scaphoid refracture and ordered a thumb spica brace as well as an MRI of the right wrist, which was performed on February 27, 2010.

¶ 14 The claimant followed up with Dr. Puppala on March 1, 2010. Dr. Puppala prescribed physical therapy twice a week for six weeks and authorized the claimant off work. Dr. Puppala diagnosed the claimant with a contusion of the lunate and a sprain of the right wrist. The claimant underwent 12 physical therapy sessions at Midwest Hand Care. A letter to Dr. Puppala dated March 29, 2010 from Midwest Hand Care indicates that the claimant had attained minimal gains in strength and essentially no reduction in pain following therapy.

¶ 15 On April 2, 2010, the claimant saw Dr. Wigderson. Dr. Wigderson kept the claimant off work and recommended an additional four weeks of physical therapy. He also recommended that

³ The "anatomical snuff box" (or "snuffbox") is a triangular deepening on the radial, dorsal aspect of the hand at the level of the carpal bones, with the scaphoid and trapezium bones forming the floor. The name originates from the use of this surface for placing and then sniffing powdered tobacco, or "snuff."

the claimant continue using the brace.

¶ 16 On April 30, 2010, the claimant returned to Dr. Wigderson with continued complaints of discomfort to the right wrist, occasional wrist clicking, soreness and morning tingling. At that time, Dr. Wigderson diagnosed Claimant with (1) eight months status post right scaphoid fracture, healed, (2) right lunate contusion vs. early Kienbock's disease, dorsal wrist sprain, and (3) persistent paresthesias of his thumb. Dr. Wigderson recommended continued physical therapy and ordered an EMG. Dr. Wigderson restricted the claimant from repetitive use of the right hand. The claimant testified that he presented Dr. Wigderson's work restriction to the employer but the employer was unable to accommodate the restriction.

¶ 17 The claimant underwent an EMG/NCV on May 11, 2010. The physician who conducted the study noted that the patient had "present[ed] a history of intermittent right upper extremity numbness" and that the EMG was performed "to evaluate for radiculopathy and/or entrapment neuropathy." The EMG/NCV revealed "moderately chronic right median neuropathy at the wrist consistent with the diagnosis of carpal tunnel syndrome."

¶ 18 The claimant treated with Dr. Wigderson again on May 17, 2010. At that time, the claimant continued to complain of numbness in the right thumb and tightness of the wrist. Dr. Wigderson reviewed the EMG of the right upper extremity, diagnosed carpal tunnel syndrome, and recommended a right carpal tunnel release. Dr. Wigderson continued the restrictions of no repetitive use of the right hand. The claimant testified that he presented these restrictions to the employer but the employer was unable to accommodate them.

¶ 19 The claimant followed up with Dr. Wigderson on June 4, 2010. Dr. Wigderson's medical record of that visit indicates that surgery was denied by workers' compensation. Dr. Wigderson continued the same restriction of no repetitive use of the right hand.

¶ 20 Claimant returned to Dr. Wigderson on June 23, 2010, complaining of continued

numbness and tingling in his right wrist and thumb. Dr. Wigderson recommended that the claimant continue to use the brace. The doctor restricted the claimant from repetitive use of the right hand and imposed a five-pound lifting limitation.

¶ 21 On November 12, 2010, the claimant was examined by Dr. Paul Papierski, the employer's section 12 independent medical examiner. After examining the claimant and reviewing the claimant's medical records, Dr. Papierski diagnosed the claimant with a right scaphoid fracture and right carpal tunnel syndrome. On November 12, 2010, Dr. Papierski issued a written report in which he opined that "[c]arpal tunnel syndrome would not be expected to occur as a result of a scaphoid fracture, September 3, 2009, nor cranking a Dolly February 16, 2009[,] [n]or repetitive activity of cranking the dolly."

¶ 22 The claimant began treating with Dr. William Malik, an orthopedic surgeon, on December 20, 2010. At that time, the claimant continued to complain of numbness and tingling in his right wrist. During his examination of the claimant, Dr. Malik administered a Phalen's test which was positive for carpal tunnel syndrome. Dr. Malik also prescribed an EMG study which revealed "chronic" carpal tunnel syndrome. Like Dr. Wigderson, Dr. Malik recommended a right carpal tunnel release. Dr. Malik performed a right carpal tunnel release on December 29, 2010.

¶ 23 The claimant continued to follow-up with Dr. Malik post-operatively. Dr. Malik prescribed physical therapy and kept the claimant off work until February 21, 2011, at which time Dr. Malik released the claimant to return to work full duty.

¶ 24 On August 3, 2011, after reviewing the claimant's medical records and diagnostic test results, Dr. Malik issued a report in which he opined that the claimant's carpal tunnel syndrome "was related to [the claimant's] initial work injury that occurred on September 3, 2009 in which [the claimant] had been diagnosed as having a non displaced fracture on his right carpal

navicular." In support of this opinion, Dr. Malik noted that: (1) the claimant was diagnosed with a fractured navicular "by MRI scan of the right wrist dated 9-21-09"; (2) "a fracture of the carpal navicular is a significant injury to the wrist area in general, and could contribute to swelling and an exacerbation of an underlying, borderline, asymptomatic carpal tunnel"; and (3) the claimant "[did] not have any evidence in his recollection or his medical history of symptoms of carpal tunnel of the right wrist." Dr. Malik further opined that the claimant's February 16, 2010, work accident "did not significantly contribute to the carpal tunnel" because there was no evidence of an additional navicular fracture after that incident and because the patient already had symptoms related to the prior work accident at the time of the February 2010 incident.

¶ 25 The claimant filed two separate claims for workers' compensation benefits, one for injuries sustained as a result of the September 3, 2009, accident (including his right carpal tunnel syndrome), and another claim for injuries caused by the February 16, 2010 accident. The arbitrator found against the claimant on the second claim, which is not at issue in this appeal.

¶ 26 During the hearing on the claimant's first claim, the claimant testified that he began feeling numbness, tingling, and soreness in his right wrist and hand immediately after the September 3, 2009, and that these symptoms were "continuous" and "remained the same and did not change" from the time of the September 3, 2009, accident, until the time he underwent the carpal tunnel release procedure. The claimant stated that the numbness, tingling, and soreness he felt when he saw Dr. Malik the first time was the "same type of problem" he was having immediately after the September 3, 2009, accident. Moreover, the claimant testified that, when he returned to work for the employer full-duty in January 2010, he experienced the same symptoms (*i.e.*, numbness and a "tingly" feeling in his "thumb area") while he was performing his job duties. He claimed that he told Dr. Wigderson about these continued symptoms when he saw the doctor in December 2009 (at the time Dr. Wigderson released him for full duty work).

¶ 27 The claimant testified that the employer terminated him in June 2010. That same month, the claimant began collecting unemployment benefits. In order to receive these benefits, the claimant had to fill out an application with the Illinois Department of Employment Security in which he indicated that he was "ready, willing, and able to work." Shortly after the employer terminated him, the claimant took a job with Domino's Pizza as a pizza delivery driver. The claimant stated that Domino's was able to accommodate the restrictions given by Dr. Wigderson of no repetitive use of the right hand and no lifting more than 5 pounds. The claimant claimed that any lifting required by the job was done with his left hand. The claimant continued to work for Domino's until December 27, 2010, two days prior to the date of his carpal tunnel release surgery. The employer paid the claimant TTD benefits from March 1, 2010 until early June 2010.

¶ 28 Dr. Papierski testified on behalf of the employer. Dr. Papierski noted that, when he examined the claimant on November 12, 2010, the claimant indicated that he had "moderate to severe continuous pain on the radial aspect of his right wrist" and "intermittent numbness and tingling of the thumb, index, and middle fingers." After examining the claimant and reviewing his medical records (including the September 21, 2009, MRI results), Dr. Papierski diagnosed a right scaphoid fracture and right carpal tunnel syndrome. He opined that the scaphoid fracture most likely sustained as a result of the September 3, 2009, work accident.

¶ 29 Dr. Papierski also opined that the claimant's carpal tunnel syndrome "would not be expected to occur as a result of the scaphoid fracture." When asked to provide reasons for this opinion, Dr. Papierski noted that the claimant's scaphoid fracture was a "nondisplaced" "microfracture" and that those types of fractures do "not result in secondary problems of carpal tunnel syndrome." Although Dr. Papierski acknowledged that a *displaced* scaphoid fracture with "sharp, bony edges" could cause carpal tunnel syndrome by irritating the tendons and causing

swelling which could extend into the carpal tunnel, he stated that he "would not expect" a *nondisplaced* scaphoid fracture like the fracture suffered by the claimant to cause such damage. Moreover, Dr. Papierski opined that, if a nondisplaced fracture did cause any such swelling, such swelling would go away when the fracture healed. Dr. Papierski further noted that he has never seen a patient develop carpal tunnel syndrome as a result of a nondisplaced fracture of the scaphoid and he could not recall reading any case reports or studies that would indicate that such fractures would lead to the development of carpal tunnel syndrome.

¶ 30 Dr. Papierski testified that symptoms of carpal tunnel syndrome include intermittent pain and intermittent numbness and tingling in the thumb, index, and middle fingers (which may become continuous "several years later" as the condition advances). He admitted that it was possible that the numbness and tingling associated with carpal tunnel syndrome could "come and go" such that "when seen by a doctor some days [the patient] would have it" and "some days he wouldn't." However, Dr. Papierski stated that there was nothing in the records he reviewed which indicated ligament damage that would have caused pressure on the transverse carpal ligaments and associated numbness. He further opined that "if there was something of that nature" "the MRI reports would make a comment about that" because an MRI taken of the scaphoid bone would see the carpal tunnel, the nerve inside the carpal tunnel, and the ligaments around the carpal tunnel. Dr. Papierski testified that the edema (*i.e.*, swelling) noted in the September 21, 2009, MRI report occurred within the bone itself (not in the surrounding structures), and that such bone edema does not cause carpal tunnel syndrome. He also opined that: (1) none of the MRIs showed evidence of any bleeding; (2) the September 21, 2009, MRI did not show any evidence of any ligament damage; and (3) although the February 27, 2010, MRI showed evidence of some ligament damage on the dorsal side of the claimant's hand (the backside of the wrist), this type of ligament damage would not impact on the carpal tunnel

because the damaged ligaments were not near or inside the carpal tunnel. Dr. Papierski admitted that the February 27, 2010, MRI also showed a rupture of the "volar beak ligament" which is "towards the palmar side of the thumb." However, in Dr. Papierski's opinion, the volar beak ligament "would not be a ligament that would be of concern for the carpal tunnel itself" because it is located "outside of the carpal tunnel."

¶ 31 Dr. Malik testified on the claimant's behalf. Based upon his examination of the claimant, his review of the medical records (including the September 21, 2009, MRI and the other diagnostic test results), and the history given by the claimant, Dr. Malik opined that the September 3, 2009, work accident caused, aggravated, or accelerated (in whole or in part) the claimant's right carpal tunnel syndrome. When asked to explain the basis of this opinion, Dr. Malik noted that the claimant complained of numbness and tingling in his right hand after the September 3, 2009, injury. He also noted that a scaphoid fracture is a "significant injury of the wrist" which results in "bleeding to the surrounding tissues" and, at times, "ligament damage which causes bleeding and swelling in the carpal canal." Dr. Malik noted that this "may compromise the tension inside a carpal tunnel," and "if somebody is maybe borderline or asymptomatic, it's enough to push him over the edge to become symptomatic." In sum, Dr. Malik opined that "the fact that there's a significant injury enough to cause a scaphoid fracture could also cause a carpal tunnel syndrome." When asked to clarify this opinion, Dr. Malik testified that it was the claimant's September 3, 2009, "wrist injury in its totality," including the scaphoid fracture, the associated bleeding, the resulting edema (or swelling), and any resulting ligament damage, which led to the development of carpal tunnel syndrome. These factors caused the claimant's carpal tunnel to be tightened, which triggered or contributed to the symptoms of carpal tunnel syndrome. Dr. Malik opined that the claimant would not have developed the symptoms of carpal tunnel syndrome when he did were it not for the September 3, 2009, work

injury.

¶ 32 Dr. Malik disagreed with Dr. Papierski's opinion that a scaphoid fracture would not be expected to cause carpal tunnel syndrome, noting, *inter alia*, that the claimant did not have symptoms of carpal tunnel before the September 3, 2009, accident but did exhibit such symptoms (*i.e.*, numbness and tingling in his right hand) immediately after that accident. Although Dr. Malik admitted that he was not certain whether the numbness and tingling that the claimant complained of in December 2010 occurred in the median nerve distribution, he testified that the symptoms of which the claimant complained (including pain in the thumb and paresthesia in the extremity) were consistent with carpal tunnel syndrome.

¶ 33 Dr. Malik acknowledged that the September 21, 2009, MRI report did not mention any ligament injuries and found that the claimant had a "[n]ormal carpal tunnel with normal median nerve without signal or morphological alteration." With respect to the latter finding, Dr. Malik noted that "[t]hat's not unexpected in terms of making the diagnosis," and that an "MRI scan is not the test necessarily to diagnose carpal tunnel as EMG nerve conduction studies are."

¶ 34 The arbitrator found that the claimant's scaphoid fracture and his right carpal tunnel syndrome were causally related to his September 3, 2009, work accident. The arbitrator based his finding on the "[claimant's] credible testimony," "the medical records provided by both parties," and Dr. Malik's opinion. The arbitrator noted that he "[gave] greater weight to the opinions of [the claimant's] treating physician, Dr. William Malik," who "opined that the scaphoid fracture is a significant injury to the wrist area and could contribute to swelling and exacerbation of an underlying, borderline asymptomatic carpal tunnel." The arbitrator observed that, in reaching this conclusion, Dr. Malik pointed out that the claimant had symptoms of carpal tunnel prior to the February 16, 2010, incident which were related to the September 3, 2009, incident. Moreover, the arbitrator noted that there was "no evidence that [the claimant] had any

carpal tunnel like symptoms prior to [the September 3, 2009] accident."

¶ 35 Although the arbitrator found that the February 16, 2010, work accident "aggravate[ed] [the claimant's carpal tunnel] condition," he found that the February 16, 2010, accident "was not the main cause of [that] condition." In support of this finding, the arbitrator noted that: (1) "Dr. Malik opined that the cranking incident of February 16, 2010, did not significantly contribute to the carpal tunnel [syndrome]"; and (2) "no surgical recommendation had been made for [the claimant's] condition prior to the February 16, 2010 date of accident."

¶ 36 The arbitrator found that the medical treatment provided to claimant was reasonable and necessary to treat the effects of his injury and ordered the employer to pay various outstanding medical expenses. In addition, based on the medical records and Dr. Malik's testimony, the arbitrator found that the claimant was temporarily totally disabled for the following periods: (1) September 4, 2009 through January 3, 2010; (2) March 1, 2010 through June 17, 2011; and (3) December 29, 2010 through January 30, 2011. The arbitrator ruled that the claimant was entitled to 37-5/7 weeks of TTD for those periods in the amount of \$20,633.49.

¶ 37 Moreover, the arbitrator awarded the claimant TPD benefits in the amount of \$13,798.14 for the period of June 18, 2010 through December 28, 2010, (the period after the claimant was terminated from the employer and before his carpal tunnel release surgery, while he was employed by Domino's Pizza).

¶ 38 The arbitrator also found that the claimant was entitled to PPD benefits. The arbitrator based this finding on the medical records and on "[the claimant's] credible testimony." Specifically, the arbitrator noted that the claimant, who "is right hand dominant," testified that "his right wrist feels tight and arthritic," that he "occasionally experiences numbness and tingling [in] the right hand as well as a decrease in strength," and that "he can write continuously for only five minutes before he has to take a break." The arbitrator noted that the claimant testified

that these symptoms "flare up occasionally while at work," particularly while he is driving in the city and while he cranks the landing gear of trailers. Based on this record, the arbitrator found that, as a result of the September 3, 2009, work accident, the claimant "sustained a 30% loss of use of his right hand pursuant to Section 8(e) of the Act," and awarded PPD benefits accordingly.

¶ 39 The employer appealed the arbitrator's decision to the Commission. After "considering the entire record and prior awards for similar injuries," the Commission modified the arbitrator's decision with regard to permanent disability by decreasing the award from 30% loss of use of the right hand to 27% loss of use of the right hand under Section 8(e) of the Act. The Commission unanimously affirmed and adopted the arbitrator's decision in all other respects. The employer then sought judicial review of the Commission's decision in the circuit court of Will County, which confirmed the Commission's ruling. This appeal followed.

¶ 40 ANALYSIS

¶ 41 1. Causation

¶ 42 The employer argues that the Commission's finding that the claimant's condition of carpal tunnel syndrome in his right hand is causally related to the September 3, 2009, work accident was against the manifest weight of the evidence. We are not persuaded.

¶ 43 To obtain compensation under the Act, a claimant must prove that some act or phase of her employment was a causative factor in his ensuing injuries. *Land and Lakes Co. v. Industrial Comm'n*, 359 Ill. App. 3d 582, 592 (2005). This presents a factual question to be decided by the Commission. *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 206 (2003). 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).

¶ 44 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 v. Illinois Industrial Comm'n*, 359 Ill. App. 3d 1083, 1086 (2005). 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.*

¶ 45 Applying these standards, we cannot say that the Commission's finding that the claimant's right carpal tunnel syndrome was causally related to his September 3, 2009, work accident was against the manifest weight of the evidence. Proof of prior good health and change immediately following and continuing after an injury may establish that an impaired condition was due to the injury. *Land and Lakes Co.*, 359 Ill. App. 3d at 593; see also *Shafer v. Illinois Workers' Compensation Comm'n*, 2011 IL App (4th) 100505WC, ¶ 39 ("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.") In this case, Dr. Wigderson's medical records indicate that the claimant began complaining of numbness and tingling in his fingers (symptoms associated with carpal tunnel syndrome) a few weeks after the September 3, 2009, work accident. As the employer acknowledges, there is no evidence that the claimant had any symptoms of carpal tunnel syndrome before the September 3, 2009, accident. When the claimant followed up with

Dr. Wigderson on October 21, 2009, he continued to complain of discomfort in the right wrist (which he characterized as "unchanged"), and he also reported experiencing tingling in his wrist and fingers when he awakens. During the arbitration hearing, the claimant testified that he began feeling numbness, tingling, and soreness in his right wrist and hand immediately after the September 3, 2009, and that these symptoms were "continuous" and "remained the same and did not change" from the time of the September 3, 2009, accident, until the time he underwent the carpal tunnel release procedure. The claimant stated that the numbness, tingling, and soreness he felt when he saw Dr. Malik the first time was the "same type of problem" he was having immediately after the September 3, 2009, accident. Moreover, the claimant testified that, when he returned to work for the employer in January 2010, he experienced the same symptoms (*i.e.*, numbness and a "tingly" feeling in his "thumb area") while he was performing his job duties.

¶ 46 Based in part on this "chain of events" evidence, Dr. Malik opined that the claimant's carpal tunnel syndrome was causally related to the September 3, 2009, work accident. When asked to explain how the scaphoid fracture the claimant suffered during that accident could have caused or aggravated his carpal tunnel syndrome, Dr. Malik noted that a scaphoid fracture is a "significant injury of the wrist" which results in "bleeding to the surrounding tissues" and, at times, "ligament damage which causes bleeding and swelling in the carpal canal." Dr. Malik testified that it was the claimant's September 3, 2009, "wrist injury in its totality," including the scaphoid fracture, the associated bleeding, the resulting edema (or swelling), and any resulting ligament damage which led to the development of carpal tunnel syndrome. These factors caused the claimant's carpal tunnel to be tightened, which triggered or contributed to the claimant's developing symptoms of carpal tunnel syndrome.

¶ 47 We hold that Dr. Malik's opinion, in conjunction with the "chain of events" evidence, is sufficient to support the Commission's causation finding. Although Dr. Papierski disagreed with

Dr. Malik and opined that the claimant's carpal tunnel syndrome was unrelated to the September 3, 2009, accident, it is the Commission's province to assess the credibility of witnesses, weigh the testimony, and resolve conflicts in the medical opinion evidence. *Hosteny*, 397 Ill. App. 3d at 675; *Fickas*, 308 Ill. App. 3d at 1041. Here, the Commission assigned greater weight to Dr. Malik's opinion and chose to credit Dr. Malik's opinion over Dr. Papierski's opinion. We cannot say that this decision was contrary to the manifest weight of the evidence.

¶ 48 The employer argues that the Commission erred in crediting Dr. Malik's causation opinion because Dr. Malik's opinion was based on assumptions that were refuted by objective medical tests. According to the employer, Dr. Malik's causation opinion was based entirely on the supposition that the claimant's scaphoid fracture damaged ligaments in his wrist, causing bleeding and swelling of those ligaments which, in turn, compressed the nerve within the carpal tunnel. However, as Dr. Malik admitted during cross-examination, the September 21, 2009, MRI showed no evidence of damaged, bleeding, or swelling ligaments, and no evidence of any compression or other abnormalities in the carpal tunnel. In fact, the September 2009 MRI showed normal ligaments and a "[n]ormal carpal tunnel with a normal median nerve, without signal or morphologic alteration." Thus, the employer argues, Dr. Malik's opinion has no basis in the medical evidence and should be rejected.

¶ 49 We do not find these arguments persuasive. Although the September 2009, MRI appears to refute one aspect of Dr. Malik's causation opinion (*i.e.*, Dr. Malik's claim that the claimant's carpal tunnel syndrome could have been rendered symptomatic because of *damaged ligaments* suffered during the September 3, 2009, accident), it does not conclusively refute Dr. Malik's opinion in its entirety. Contrary to the employer's argument, Dr. Malik's causation opinion did not rest entirely on the assumption that the claimant had damaged ligaments. Rather, Dr. Malik opined that a scaphoid fracture may cause other conditions that can produce symptoms of carpal

tunnel syndrome, including "bleeding to the surrounding tissues." Dr. Malik testified that it was the claimant's September 3, 2009, "wrist injury *in its totality*," including the scaphoid fracture, bleeding associated with the fracture, and the resulting edema (or swelling), plus any resulting ligament damage and associated bleeding or swelling in the ligaments, which led to the development of carpal tunnel syndrome. The employer focuses on only one of several possible causal mechanisms identified by Dr. Malik (*i.e.*, damaged ligaments). Although the September 21, 2009, MRI appears to rule out that particular causal mechanism, it does not appear to rule out the possibility that the other potential causal mechanisms identified by Dr. Malik (*i.e.*, the scaphoid fracture itself and bleeding and swelling in the tissues surrounding the scaphoid bone) might have played a causal role in the claimant's development of carpal tunnel syndrome, even if such bleeding and swelling had resolved before the September 21, 2009, MRI was performed.⁴

⁴ The employer also argues that Dr. Malik's opinion was "internally inconsistent" because Dr. Malik equivocated as to whether the September 3, 2009, caused or merely aggravated the claimant's carpal tunnel syndrome. It is true that, at one point during cross-examination, Dr. Malik agreed with the employer's counsel's statement that the scaphoid fracture "actually caused the carpal tunnel syndrome" and "didn't aggravate a pre-existing condition." However, on redirect examination and throughout the remainder of his testimony, Dr. Malik consistently opined that the scaphoid fracture caused *or* aggravated the carpal tunnel syndrome. Moreover, Dr. Malik explained that "carpal tunnel syndrome" is the "actual symptoms that develop" (such as numbness and tingling) as a result of pressure or tightening within the carpal tunnel. Thus, Dr. Malik's opinion that the scaphoid fracture could "exacerbate" an "asymptomatic" carpal tunnel and "cause the carpal tunnel to become symptomatic" is not inconsistent with his statement on cross-examination that the scaphoid fracture "caused" the claimant's carpal tunnel

Moreover, the fact that the September 21, 2009, MRI showed a normal carpal tunnel and a normal median nerve is not necessarily determinative because Dr. Malik testified that carpal tunnel syndrome is normally diagnosed by an EMG nerve conduction study, not by an MRI scan.

¶ 50 The employer also argues that Dr. Malik's opinions should not be credited because Dr. Malik "failed to account for the fact that [the claimant] had no symptoms of carpal tunnel" when he saw Dr. Wigderson in November and December of 2009. The employer also notes that, after the claimant returned to full duty work in January 2010, he "did not return to Dr. Wigderson or his partner with complaints of numbness and tingling until after the February, 2010 accident." Carpal tunnel syndrome was never considered, discussed, or diagnosed by the claimant's treating physicians until after the February 2010 accident.

¶ 51 These considerations do not fatally undermine Dr. Malik's causation opinion. The employer's expert, Dr. Papierski, admitted that the numbness and tingling associated with carpal tunnel syndrome could "come and go" such that "when seen by a doctor some days [the patient] would have it" and "some days he wouldn't." Thus, the fact that the claimant did not report feeling numbness and tingling when he saw Dr. Wigderson in November and December of 2009 does not rule out the possibility that he had carpal tunnel syndrome at that time. Moreover, the medical records indicate that the claimant reported experiencing numbness and tingling to Dr. Wigderson in September and October of 2009, to Dr. Puppala in February of 2010, to Dr. Wigderson in April and June 2010, and to Dr. Malik thereafter. In addition, the claimant testified that the numbness and tingling was "continuous" and "remained the same and did not change" from the time of the September 3, 2009, accident, until the time he underwent the carpal tunnel release procedure on December 29, 2010.

syndrome.

¶ 52 We acknowledge that the causation issue in this case presents a close question because the September 21, 2009, MRI undermined Dr. Malik's causation opinion in certain important respects and because there is other evidence in the record supporting a contrary conclusion. However, our task is to determine 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*, 329 Ill. App. 3d at 833. We may not overturn the Commission's decision merely because other inferences from the evidence may be drawn. *Berry*, 99 Ill. 2d at 407. Although the medical opinion evidence in this case was in conflict, it was not unreasonable for the Commission to find that the balance of evidence tipped in favor of claimant. In sum, we cannot say that the Commission's causation finding was against the manifest weight of the evidence, *i.e.*, that the opposite conclusion was "clearly apparent."

¶ 53 2. TPD Benefits

¶ 54 The employer argues that the Commission's award of TPD benefits was against the manifest weight of the evidence.

¶ 55 Section 8(a) of the Act provides that a claimant is entitled to temporary partial disability (TPD) benefits when he "is working light duty on a part-time basis or full-time basis and earns less than he *** would be earning if employed in the full capacity of the job or jobs." 820 ILCS 305/8(a) (West 2008). The Commission awarded the claimant TTD benefits from June 18, 2010, through December 28, 2010. During that time period, the defendant was working as a pizza delivery driver for Domino's pizza. (The employer had terminated the claimant in June 2010, before he took the job at Domino's.) The claimant testified that, unlike the employer, Domino's was able to accommodate the work restrictions imposed by Dr. Wigderson in May and June of 2010 which barred the claimant from repetitive use of his right hand and from lifting more than five pounds. The claimant claimed that any lifting required by the Domino's job was done with

his left hand. The claimant continued to work for Domino's until December 27, 2010, two days prior to the date of his carpal tunnel release surgery.

¶ 56 The employer does not dispute that, during the time period for which the Commission awarded TPD benefits, the claimant was "working light duty on a part-time basis or full-time basis" and that he earned less at Domino's than he would have earned had he continued working full time for the employer. Nor does he contest the Commission's calculation of the amount of TPD benefits to which the claimant was entitled. Rather, the employer argues that the Commission's award of TPD benefits was improper because: (1) Dr. Wigderson released the claimant to work full duty as of January 4, 2010; (2) "[t]here is no credible medical evidence that any condition [the claimant] had after January 5, 2010, was in any way related " to the September 3, 2009, work accident; and (3) the defendant testified that he began collecting unemployment benefits in June 2010, which required him to represent that he was "ready, willing, and able to work."

¶ 57 We are not persuaded by these arguments. The fact that the claimant was released to return to his full-duty job with the employer without restriction as of January 4, 2010, is irrelevant because the claimant was taken off work and given new work restrictions after the February 2010 work accident.⁵ The employer was unable to accommodate those restrictions and terminated the claimant in June 2010. The employer does not and cannot argue that the claimant

⁵ As noted above, in April, May, and June of 2010, Dr. Wigderson had restricted the claimant from repetitively using his right hand. On June 23, 2010, Dr. Wigderson continued this restriction and added a 5-pound lifting limitation. The claimant was not released to return to work full duty until February 21, 2011, after he underwent (and recovered from) carpal tunnel release surgery.

was released to work full duty without restriction during the time covered by the Commission's award of TPD benefits (June 18, 2010, through December 28, 2010).

¶ 58 We also reject the employer's claim that "[t]here is no credible medical evidence that any condition [the claimant] had after January 5, 2010, was in any way related " to the September 3, 2009, work accident. As noted above, Dr. Malik's opinion together with evidence that the claimant continuously exhibited symptoms of carpal tunnel syndrome starting shortly after the September 3, 2009, accident suggests that the claimant's carpal tunnel syndrome was causally related to the September 3, 2009, work accident.

¶ 59 Moreover, the fact that the claimant began collecting unemployment benefits in June 2010, which required him to represent that he was "ready, willing, and able to work, is of no consequence. The fact that an employee applies for or receives unemployment compensation does not preclude or diminish her eligibility to receive TTD benefits. *Crow's Hybrid Corn Co. v. Industrial Comm'n*, 72 Ill. 2d 168, 178–79 (1978); see also *Shafer*, 2011 IL App (4th) 100505WC, ¶ 47; *Schmidgall v. Industrial Comm'n*, 268 Ill. App. 3d 845, 849 (1994) ("temporary total disability benefits are not precluded or even reduced by collecting unemployment compensation benefits").⁶ Representing in an application for unemployment compensation that one is "ready willing, and able, to work" is not inconsistent with the receipt of TTD benefits because the availability for light work is not inconsistent with an entitlement to TTD benefits. *Crow's Hybrid Corn Co.*, 72 Ill. 2d at 178–79; *Shafer*, 2011 IL App (4th) 100505WC, ¶ 47. The lack of any inconsistency is even more obvious in the case of TPD

⁶ Rather, once the disability benefits are received, the unemployment compensation should be reduced by the amount of temporary disability benefits or the unemployment compensation fund should be reimbursed. *Crow's Hybrid Corn Co.*, 72 Ill. 2d at 179.

benefits, which are available *only if the claimant is actually working light duty*. 820 ILCS 305/8(a) (West 2008).

¶ 60 Accordingly, the Commission's award of TPD benefits was not against the manifest weight of the evidence.

¶ 61 3. The employer's remaining arguments

¶ 62 The employer also argues that the Commission's award of TTD benefits, PPD benefits, and medical expenses were against the manifest weight of the evidence. Each of these arguments is based entirely on the employer's contention that the claimant's carpal tunnel syndrome is not causally related to the September 3, 2009, work accident. Because we have already rejected that claim, we also reject the claimant's additional arguments. After reviewing the record, we conclude that the Commission's award of TTD benefits, PPD benefits, and medical expenses was not against the manifest weight of the evidence.

¶ 63 CONCLUSION

¶ 64 For the foregoing reasons, we affirm the judgment of the circuit court of Will County confirming the Commission's decision and remand the case for further proceedings.

¶ 65 Affirmed; cause remanded.