2015 IL App (4th) 140475WC-U
No. 4-14-0475WC
Order filed June 25, 2015

IN THE

APPELLATE COURT OF ILLINOIS

FOURTH DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

BETTY QUICK, Appellant, v. THE ILLINOIS WORKERS' COMPENSATION COMMISSION, et al., (Dan Rutherford and Peabody Coal Company, Appellees).	)	Appeal from the Circuit Court of Sangamon County. No. 10-MR-592 Honorable Leslie J. Graves, Judge, Presiding.

JUSTICE HUDSON delivered the judgment of the court.
Justices Hoffman, Harris, and Stewart concurred in the judgment.
Presiding Justice Holdridge dissented.

ORDER

¶ 1 *Held*: The Commission's finding that claimant failed to prove that decedent was disabled or that he died as the result of the exposure to the hazards of an occupational disease while in the employment of respondent was not against the manifest weight of the evidence given the conflicting medical evidence presented at the arbitration hearing.

¶ 2 Claimant, Betty Quick, appeals from the judgment of the circuit court of Sangamon County confirming a decision of the Illinois Workers' Compensation Commission

(Commission). The Commission affirmed and adopted the decision of the arbitrator. The arbitrator concluded that claimant failed to prove that her husband, John T. Quick, Sr. (decedent), was disabled or that he died as the result of the exposure to the hazards of an occupational disease arising from his employment with respondent, Peabody Coal Company. Accordingly, the arbitrator denied claimant's request for benefits pursuant to the Workers' Occupational Diseases Act (Act) (820 ILCS 310/1 *et seq*. (West 2004)). For the reasons set forth below, we affirm.

¶ 3 I. BACKGROUND

¶ 4 The following is a synopsis of the evidence presented at the arbitration hearing on claimant's application for adjustment of claim, which was held on October 8, 2009. Decedent was born on August 6, 1920, and began working as a coal miner in November 1939. During his career, decedent worked for a variety of companies and in various positions, including trackman, timberman, continuous miner operator, driller-shooter, and cutting-machine operator. Decedent was working as a roof bolter for respondent when he retired from coal mining on April 30, 1980.

¶ 5 Subsequent to his retirement, decedent developed a variety of maladies, including Parkinson's Disease, dementia, and gastroesophageal reflux disease (GERD). As a result of his health status, decedent was adjudicated a disabled adult and began living in a nursing home. Melody Reynolds, the daughter of claimant and decedent, testified that decedent had breathing problems during the later years of his life, especially when he was residing in the nursing home. Reynolds testified that decedent had filed for either federal or state black-lung benefits during his lifetime. However, she was not aware whether any treating physician had actually diagnosed decedent with black-lung disease.

¶ 6 Decedent died on September 2, 2004. The medical certificate of death was signed by Dr. Roger McClintock, decedent's primary-care physician. The immediate cause of death is listed as aspiration pneumonia. No other cause of death is listed on the death certificate. Following decedent's death, claimant retained Dr. Malcolm Goodwin to conduct a limited autopsy of decedent.

¶ 7 A. Evidence Deposition of Dr. Roger McClintock

¶ 8 Dr. McClintock began treating decedent in 1997. Dr. McClintock testified that he never diagnosed claimant with chronic obstructive pulmonary disease (COPD) or coal workers' pneumoconiosis (CWP). However, he did treat decedent on occasion for acute bronchitis. Dr. McClintock referenced a medical note from Dr. M.B. Prabhu dated December 19, 2002. Dr. McClintock referred decedent to Dr. Prabhu in relation to a diagnosis of bronchitis with some segmental atelectasis in both lungs and early pneumonia. Dr. Prabhu felt that decedent's pulmonary condition was most likely caused by an aspiration of stomach contents or a nosocomial pneumonia, *i.e.*, a pneumonia contracted from either a nursing home or a hospital. Dr. McClintock also testified that he admitted decedent to the hospital on March 15, 2003, for a principal diagnosis of pneumonia. Dr. McClintock indicated that the cause of the pneumonia was bacterial, and that claimant was treated with antibiotics. After examining decedent's file, Dr. McClintock could not find any other instances where he treated claimant for respiratory problems.

¶ 9 Dr. McClintock testified that CWP is diagnosed by pathology at the time of death. He noted, however, that pulmonary-function tests can demonstrate the interstitial disease process, which would be consistent with any form of pneumoconiosis. Dr. McClintock did not believe that it was necessary to order any pulmonary-function tests for decedent. He explained that

during the years he cared for decedent, decedent was steadily declining and he (Dr. McClintock) was "putting out problems as they arose."

¶ 10 Dr. McClintock testified that on September 2, 2004, the day of decedent's death, he sent decedent to the emergency room from the nursing home. Dr. McClintock testified that he suspected that decedent had aspirated. When asked about the cause of the aspiration, Dr. McClintock responded:

> "[Decedent] was quite debilitated towards the end of life, and he had a lot of arthritis. He was hunched over pretty bad, a lot of kyphoscoliosis, and I don't know whether it happened with supper, or if he was eating a snack. I remember being called, it was around the afternoon, late afternoon, I believe when I heard about this. The clinical history was such that aspiration pneumonia was on the top of my list."

Dr. McClintock also noted that claimant suffered from Parkinson's Disease, dementia, and GERD. Dr. McClintock explained that dementia can progress to the point where an individual is more prone to aspirating. He also explained that a sedentary lifestyle can be a factor in aspiration, and that, towards the end of his life, decedent was not ambulating on his own. At the time of his deposition, Dr. McClintock continued to believe that the cause of decedent's death was aspiration pneumonia. He opined that the aspiration was an acute situation.

¶ 11 On cross-examination, Dr. McClintock agreed that aspiration pneumonia can be multifactorial in etiology. Dr. McClintock testified that if an autopsy were done on decedent by a board-certified pathologist who diagnosed simple CWP, complicated CWP, and other lung diseases, he would defer to the pathologist's diagnoses. Dr. McClintock further testified that if the pathologist agreed that decedent's cause of death was aspiration pneumonia and opined that

an underlying diagnosis of CWP made decedent more susceptible to aspiration pneumonia and more difficult for him to recover from it, he would agree with that "possibility."

¶ 12 B. Evidence Deposition of Dr. Malcolm Goodwin

¶ 13 Dr. Goodwin is a pathologist and is board certified in anatomic pathology, forensic medicine, and forensic examinations. Dr. Goodwin testified that on September 4, 2004, he was contacted by funeral director Larry Sutton to conduct an autopsy "for a man who was a coal miner and whose family desired to determine if this coal worker's disease existed." Dr. Goodwin told Sutton to have the family's attorney contact him if they were "serious enough." Eventually, claimant's attorney contacted Dr. Goodwin, and he was retained to perform "a limited autopsy for the purpose of determining whether there was [CWP]." In preparation for his limited autopsy, Dr. Goodwin was provided "a minimum history" of decedent being a coal worker at the face of the mine. Dr. Goodwin's limited autopsy consisted primarily of an examination of internal aspects of the chest cavities in the pleural spaces, bilaterally. Dr. Goodwin prepared a report of his findings on September 13, 2004. In addition, on March 5, 2005, Dr. Goodwin authored a letter in response to inquiries from claimant's attorney.

¶ 14 Based on the data available to him, Dr. Goodwin opined that decedent had both simple CWP and complicated CWP (also known as progressive massive fibrosis). Dr. Goodwin further opined that the basic cause of decedent's CWP was the inhalation of coal dust. Dr. Goodwin agreed with the cause of death listed on decedent's death certificate, which was aspiration pneumonia. Dr. Goodwin described aspiration pneumonia as "typically an end process complicating some other problems." Dr. Goodwin testified that normally in lungs with the degree of pathology presented by decedent, there is recurrent bronchitis, recurrent pneumonia, and pulmonary inflammatory processes of a significant character. Dr. Goodwin further testified

that in the context of some inflammatory problems with one's lungs, an individual can become sufficiently ill to aspirate gastric contents which would then push the individual over the point at which he or she would be able to survive. Thus, Dr. Goodwin reasoned, although the "immediate mechanism" of decedent's death was aspiration pneumonia, that condition "would not have been expected" absent CWP and its associated complications. In other words, he stated, while the "final process" causing decedent's death was aspiration pneumonia, that condition occurred "secondary to the main cause of death which is the [CWP]."

¶ 15 On cross-examination, Dr. Goodwin confirmed that, prior to his deposition, he did not see any of decedent's medical records other than the death certificate. On the day of the deposition, he saw a one-page abstract of decedent's medical records provided by claimant's attorney. Dr. Goodwin testified that the abstract "confirmed what [he] expected *** that [decedent] would have respiratory problems." Dr. Goodwin further testified that, judging from the lung tissue, decedent would have started having pulmonary problems "at least two years prior to 1980." Dr. Goodwin was not aware if decedent was a cigarette smoker, but noted that decedent did not show any pathological evidence of cigarette smoke.

¶ 16 Dr. Goodwin further acknowledged on cross-examination that his 31-page initial pathology report did not indicate that decedent's primary cause of death was CWP or that decedent's aspiration pneumonia was secondary to CWP. Dr. Goodwin admitted that when he wrote the report, he had completed "the mission" given to him by decedent's family, which was "to determine not the cause of death, not the manner of death, but whether or not there was [CWP] present." Dr. Goodwin also conceded that the presence of coal dust in one's lungs does not necessarily mean that that individual has CWP.

¶ 17 Dr. Goodwin admitted that CWP is not the only cause of aspiration pneumonia. He stated that "[a]ny sickness of severe degree may result in an aspiration pneumonia." Moreover, Dr. Goodwin agreed that it was possible that decedent died as a result of aspiration pneumonia that had nothing to do with CWP. Dr. Goodwin stated that he did not want to speculate on what might have caused decedent's aspiration, but allowed that "a large number of possibilities exist other than being sick from his bronchiectasis and CWP." When asked the basis for his opinion that CWP caused the aspiration pneumonia resulting in decedent's death, Dr. Goodwin initially responded:

> "Two points to answer that. The first one is that whatever caused the aspiration is immaterial. It was aspiration on top of diminished capacity already. Second, from the amount of disease present in these two lungs, I expect him to be having frequent significant infections including pneumonia and bronchitis which would be no surprise as etiology of his illness leading to his vomiting."

He later stated, however, that without decedent's medical records, he "cannot confirm that this specific event with this specific person was that sequence of events."

¶ 18 Dr. Goodwin was asked whether it would be his opinion that the cause of decedent's death was aspiration pneumonia due to CWP if the medical records indicated that decedent aspirated something from his stomach because he ate or drank something wrong or had food poisoning. Dr. Goodwin responded in the negative. Nevertheless, Dr. Goodwin remained steadfast that "whatever the cause of the aspiration, the aspiration pushed [decedent] over the limit of survivability. And the thing that had him close to it in the first place was his [CWP]." Dr. Goodwin stated that he could make such a statement without seeing the medical records because he had seen decedent's tissue. Dr. Goodwin added that an individual having CWP

without any pulmonary difficulties is "a contradiction in terms." Nevertheless, he acknowledged that it is possible for an individual who has CWP to die from a pulmonary problem completely unrelated to CWP.

¶ 19 On redirect, Dr. Goodwin testified that not everyone who experiences an aspiration dies. He stated that the health of the lung when the aspiration occurs affects the ability of an individual to recover from the aspiration. Dr. Goodwin added that an aspiration can be multifactorial in nature. Dr. Goodwin noted that a severe illness which promotes or causes nausea can be involved in an aspiration as can a condition that diminishes one's mental acuity or his awareness of what his body is doing.

¶ 20 D. Evidence Deposition of Dr. Jeffrey Selby

¶ 21 Dr. Selby, a certified B-reader and board-certified internist and pulmonologist, reviewed medical records from decedent's primary-care physicians covering decedent's treatment between October 1972 and his death in September 2004. Dr. Selby also reviewed the report of the autopsy performed by Dr. Goodwin. Dr. Selby authored a report dated July 26, 2006, summarizing his findings.

¶ 22 In his report, Dr. Selby found that decedent's treatment records did not contain any respiratory or pulmonary complaints during decedent's coal-mining career or after his retirement. In addition, Dr. Selby found no evidence that claimant suffered from clinical CWP. In this regard, Dr. Selby noted that at the time claimant left coal mining, he had the pulmonary and respiratory capacity to perform any and all previous coal-mine employment duties. Dr. Selby based this finding on pulmonary function testing administered approximately two years prior to his retirement. Dr. Selby reviewed multiple chest X-ray reports and determined that not one of them contained evidence of pulmonary fibrosis from any source, let alone CWP.

¶ 23 Dr. Selby acknowledged that the limited autopsy findings of Dr. Goodwin show evidence of coal-dust inhalation. He stated, however, that this would not be uncommon in an individual spending any amount of time in a coal mine. Dr. Selby also acknowledged that Dr. Goodwin found evidence of coal macules, some early fibrosis, and some "bare minimum requirements" for complicated pneumoconiosis. Dr. Selby noted, however, that none of this appeared radiographically. Moreover, Dr. Selby emphasized that pathologic evidence of pneumoconiosis does not necessarily equate to impairment or disability during life. Noting that decedent's clinical testing showed no impairment during life from a pulmonary or respiratory perspective, Dr. Selby described decedent's case as "a perfect example" of abnormal pathology while maintaining normal physiology in clinical testing. Thus, Dr. Selby determined that if decedent did have CWP by autopsy, it had no bearing on his respiratory status while alive. Dr. Selby based the latter finding on the lack of respiratory complaints during decedent's active coal mining years, the negative chest radiographs, and the absence of findings or comments by decedent's treating physicians based on objective evidence.

¶ 24 After being provided a transcript of Dr. Goodwin's deposition, Dr. Selby authored a second report dated January 27, 2008. Dr. Selby explained the basis for his finding that Dr. Goodwin's opinion regarding progressive massive fibrosis is not credible. He opined that Dr. Goodwin's theory that aspiration pneumonia caused death only because CWP was present defies sound medical practice associated with decedent's case. He noted that the attending and treating physicians through decedent's course of care did not "list the idea of [CWP]." Dr. Selby also pointed out that Dr. Goodwin's autopsy was very limited and was performed in a less than optimal setting targeted to find one diagnosis. Dr. Selby concluded that the autopsy findings do not correlate with the premortem physical examinations, chest X rays, pulmonary function

testing, or listed diagnoses. For these reasons, Dr. Selby opined that decedent did not have CWP and that CWP did not contribute to decedent's death.

¶ 25 Dr. Selby acknowledged that decedent's medical records showed that he occasionally had pneumonia, bronchitis, and upper respiratory infections. However, Dr. Selby found that these conditions were all acute episodes and there was nothing on an ongoing, chronic basis. He also acknowledged that decedent's medical records mention COPD. Nevertheless, Dr. Selby determined that the finding of COPD did not correlate with the pulmonary function tests administered at the time. Dr. Selby added that the finding was "just a one-time thing out of many different entries, and COPD is an often abused, misused, and overused term."

¶ 26 Dr. Selby noted that decedent's death certificate listed aspiration pneumonia as the cause of death. Dr. Selby explained that aspiration pneumonia is very common in older individuals and those with "an altered consciousness" as a result of the administration of sedatives, dementia, immobility, or weakened reflexes. Dr. Selby opined that the cause of death listed on claimant's death certificate was consistent with the medical records he reviewed. He noted, for instance, that claimant had gastrointestinal abnormalities for decades, including GERD, which meant that he was aspirating acid. In addition, decedent suffered from Parkinson's Disease, which can cause dementia, stiffness or weakness, and immobility. Furthermore, Dr. Selby noted that the drugs used to treat Parkinson's Disease can contribute to a decreased level of consciousness. Dr. Selby opined that these circumstances, which can diminish the level of consciousness, decrease the reflexes to gag, and prevent protection of the upper airway where aspiration occurs, presented an ideal setting for aspiration pneumonia and death to occur. Nevertheless, Dr. Selby acknowledged that if an individual has significant, chronic underlying lung disease, that condition could affect his or her ability to recover from aspiration pneumonia.

¶ 27 E. Decisions of Arbitrator, Commission, and Trial Court

¶ 28 Based on the evidence presented at the hearing, the arbitrator concluded that claimant failed to prove that decedent was disabled or that he died as the result of the exposure to an occupational disease to which he was last exposed while employed as a coal miner for respondent. In support of this finding, the arbitrator credited the medical opinions of Dr. McClintock and Dr. Selby over the opinion of Dr. Goodwin. In particular, the arbitrator determined that Dr. Goodwin's opinion carried less weight because he did not review decedent's medical records, he performed a limited autopsy solely for the purpose of determining whether decedent had CWP, and he admitted that he was not asked to opine whether there was a causal relationship between CWP and the cause of decedent's death. In contrast, the arbitrator pointed out that both Dr. McClintock and Dr. Selby reviewed all of decedent's medical treatment records. Yet, Dr. McClintock never diagnosed claimant with CWP, and his testimony established that decedent died from aspiration pneumonia unrelated in any way to CWP or any other work-related pulmonary condition of ill-being.

¶ 29 The arbitrator also noted that decedent "lived 84 years and there is no indication in any of the medical evidence that he ever complained of or was treated for any employment-related pulmonary condition of ill-being." The arbitrator acknowledged evidence that, at some point, decedent filed for black-lung benefits. She noted, however, that there was no evidence that decedent was ever awarded these benefits. Accordingly, the arbitrator concluded that the medical records and death certificate establish that decedent died from aspiration pneumonia caused by factors completely unrelated to any employment-related pulmonary condition of ill-being and that claimant was therefore not entitled to any benefits under the Act. The Commission unanimously affirmed and adopted the decision of the arbitrator in its entirety. On

judicial review, the circuit court of Sangamon County confirmed the decision of the Commission. This appeal by claimant followed.

¶ 30 II. ANALYSIS

¶ 31 On appeal, claimant argues that the Commission's denial of benefits was against the manifest weight of the evidence and premised on an incorrect legal standard. Claimant asserts that the Commission's decision was based upon the opinion of Dr. Selby, a pulmonologist who disagreed with the pathological findings of Dr. Goodwin. Claimant maintains that Dr. Selby's opinion was insufficient to overcome the pathologic evidence of disease and, therefore, it cannot stand. We disagree.

¶ 32 Death is compensable under the Act if the decedent's employment was a causative factor. *Freeman United Coal Mining Co. v. Industrial Comm'n*, 386 Ill. App. 3d 779, 784 (2008). The employment need not be the sole cause or even the primary cause so long as it was *a* cause. *Freeman United Coal Mining Co. v. Industrial Comm'n*, 317 Ill. App. 3d 497, 504 (2000). The existence of a relationship between an individual's employment and his or her injury is a question of fact. *Bernardoni v. Industrial Comm'n*, 362 Ill. App. 3d 582, 597 (2005); *Freeman United Coal Mining Co.*, 317 Ill. App. 3d at 504. It is the function of the Commission to decide questions of fact, judge the credibility of witnesses, and resolve conflicting medical evidence. *Hosteny v. Illinois Workers' Compensation Comm'n*, 397 Ill. App. 3d 665, 674 (2009). The Commission's determination on a question of fact will not be disturbed on review unless it is against the manifest weight of the evidence. *Docksteiner v. Industrial Comm'n*, 346 Ill. App. 3d 851, 856-57 (2004). For a finding to be contrary to the manifest weight of the evidence, an opposite conclusion must be clearly apparent. *Westin Hotel v. Industrial Comm'n*, 372 Ill. App. 3d 527, 539 (2007). The appropriate test is whether the record contains sufficient evidence to

support the Commission's decision, not whether this court might have reached the same conclusion. *Freeman United Coal Mining Co.*, 317 Ill. App. 3d at 504. Stated another way, "[w]e cannot reject or disregard permissible inferences drawn by the Commission simply because different or conflicting inferences might also reasonably be drawn from the same facts, nor can we substitute our judgment for that of the Commission on such matters unless its findings are contrary to the manifest weight of the evidence." *Zion-Benton High School District 126 v. Industrial Comm'n*, 242 Ill. App. 3d 109, 113 (1993).

¶ 33 In this case, the Commission had before it contradictory medical testimony regarding whether decedent was disabled from any occupational disease and whether there was a causal relationship between decedent's exposure to the hazards of any occupational disease and his death. In this regard, the record established that, following a limited autopsy, Dr. Goodwin, the pathologist, diagnosed decedent as having both simple CWP and complicated CWP caused by decedent's inhalation of coal dust while working as a miner. Dr. Goodwin suggested that an individual who has CWP will necessarily experience pulmonary difficulties. Moreover, Dr. Goodwin opined that while the "immediate mechanism" of decedent's death was aspiration pneumonia, that condition "would not have been expected" absent CWP and its associated complications. In other words, it was Dr. Goodwin's belief that aspiration pneumonia was secondary to the main cause of decedent's death, which was the CWP.

¶ 34 In contrast, Dr. McClintock, decedent's long-time treating physician, testified that he never diagnosed decedent with COPD or CWP. Dr. McClintock determined that decedent died as a result of aspiration pneumonia unrelated to the inhalation of any coal dust exposure. While Dr. McClintock agreed that aspiration pneumonia can be multifactorial in etiology and that there was a "possibility" that an underlying diagnosis of CWP could make it more difficult for an

individual to recover from aspiration pneumonia, Dr. McClintock did not attribute any work-related pulmonary condition of ill-being to the cause of decedent's death. Rather, Dr. McClintock noted that decedent suffered from various maladies towards the end of his life, including dementia, and that he was not ambulating on his own. Dr. McClintock testified that factors such as dementia and a sedentary lifestyle can make an individual more prone to aspiration.

¶ 35 Similarly, Dr. Selby found no evidence that decedent suffered from clinical CWP. Dr. Selby pointed out that decedent's treatment records did not record any respiratory or pulmonary complaints during decedent's coal-mining career or after his retirement. Further, Dr. Selby noted that none of the chest X-ray reports he reviewed contained evidence of pulmonary fibrosis from any source. Dr. Selby acknowledged that Dr. Goodwin found evidence of CWP upon autopsy. He emphasized, however, that pathologic evidence of pneumoconiosis does not necessarily equate to impairment or disability during life. Therefore, he opined, even if CWP was discovered during the autopsy, the lack of respiratory complaints during claimant's active coal-mining years, the negative chest radiographs, and the absence of findings or comments by decedent's treating physicians based on objective evidence demonstrated that the condition had no bearing on claimant's respiratory status while alive. Moreover, Dr. Selby found that while decedent's medical records establish that he had occasional pneumonia, bronchitis, and upper respiratory infections, these conditions were all acute and there was nothing on an ongoing, chronic basis.

¶ 36 Likewise, Dr. Selby found that a cause of death resulting from aspiration pneumonia was consistent with the medical records he reviewed. Dr. Selby explained that aspiration pneumonia is common in older individuals and those with "an altered consciousness" as a result of the

administration of sedatives, dementia, immobility, or weakened reflexes. Dr. Selby noted that decedent had GERD, which meant that he was aspirating stomach acid. In addition, Dr. Selby noted that decedent suffered from Parkinson's Disease, which can cause dementia, weakness, and immobility. He also indicated that the drugs used to treat Parkinson's Disease can contribute to a decreased level of consciousness.

¶ 37 This case presents a classic example of conflicting medical evidence going to the principal issues of whether decedent was disabled and whether he died as a result of the exposure to the hazards of an occupational disease. As in any case, it was for the Commission to weigh the conflicting evidence and resolve those factual issues. Here, the Commission, in affirming and adopting the decision of the arbitrator, chose to assign more weight to the medical records and opinions of Dr. McClintock and Dr. Selby than those of Dr. Goodwin. Based on our review of the evidence of record, we cannot conclude that the Commission's decision in this regard was against the manifest weight of the evidence.

¶ 38 Nevertheless, claimant maintains that the Commission erred in assigning less weight to the opinion of Dr. Goodwin because even Dr. McClintock, decedent's treating physician, testified that if an autopsy revealed that decedent had CWP, he would defer to the pathologist's finding, and conceded the "possibility" that the presence of CWP could have made decedent more susceptible to aspiration. We note too that Dr. Selby acknowledged that if an individual has significant, chronic underlying lung disease, that condition could affect his or her ability to recover from aspiration pneumonia. However, the Commission could have reasonably concluded that this testimony was insufficient to compel a finding of compensability especially in light of Dr. Goodwin's concessions that (1) he was not retained to provide an opinion on the cause of death, (2) he did not indicate that the primary cause of decedent's death was CWP in his

initial report, (3) CWP is not the only cause of aspiration pneumonia, (4) any sickness of severe degree may result in an aspiration pneumonia, and (5) decedent could have died as a result of aspiration pneumonia that had nothing to do with CWP. Moreover, when asked on cross-examination about the basis for his opinion that CWP caused the aspiration pneumonia from which decedent died, Dr. Goodwin admitted that, without decedent's medical records, he was unable to confirm that the CWP that he found caused the aspiration pneumonia from which decedent died.

¶ 39 Claimant also contends that the Commission's comments indicate that it adopted Dr. Selby's theory that there was no lung damage of any import because decedent lived to age 84. Claimant asserts that this is the wrong legal test. According to claimant it does not matter how long decedent lived, it only matters if he had an occupational lung disease which contributed to or hastened decedent's death. We do not disagree with claimant's position. Nonetheless, when the reference to decedent's age is read in context, it is clear that the point being made by the Commission was that the medical evidence established that decedent never complained of or was treated for any employment-related pulmonary condition of ill-being during his lifetime.

¶ 40 Finally, claimant notes that the arbitrator made some deposition rulings which she contested before the Commission. According to claimant, the Commission took no action on the rulings even though respondent did not reply to her contentions in its reply brief. Initially, we disagree with claimant's contention that the Commission took no action on the rulings. Although the Commission did not expressly reference claimant's challenge to the arbitrator's deposition rulings, the Commission affirmed and adopted the decision of the arbitrator in its entirety. There is no reason to believe that this decision did not encompass the arbitrator's evidentiary rulings. In any event, evidentiary rulings made during the course of a workers'

compensation proceeding will be upheld on review absent an abuse of discretion. *Greaney v. Industrial Comm'n*, 358 Ill. App. 3d 1002, 1010 (2005). An abuse of discretion occurs when no reasonable person would take the view adopted by the Commission. *Hagemann v. Illinois Workers' Compensation Comm'n*, 399 Ill. App. 3d 197, 204 (2010). After reviewing the multiple allegations of error raised by claimant in this case, we cannot say that the Commission's deposition rulings constituted an abuse of discretion.

¶ 41 To summarize, Dr. Goodwin opined that decedent died from aspiration pneumonia secondary to CWP. However, he could not rule out that CWP played no role in decedent's aspiration pneumonia. Conversely, both Dr. McClintock and Dr. Selby opined that claimant's immediate cause of death was aspiration pneumonia brought on by Parkinson's Disease, dementia, and/or GERD. Nevertheless, both Dr. McClintock and Dr. Selby acknowledged the possibility that CWP can play a role in contracting aspiration pneumonia. Thus, the Commission was presented with conflicting medical evidence on this matter. It resolved the conflict in favor of respondent. Given the conflicting evidence, we cannot say that an opposite conclusion is clearly apparent. As such, the Commission's finding is not against the manifest weight of the evidence.

¶ 42 III. CONCLUSION

¶ 43 For the reasons set forth above, we affirm the judgment of the circuit court of Sangamon County, which confirmed the decision of the Commission.

¶ 44 Affirmed.

¶ 45 PRESIDING JUSTICE HOLDRIDGE, dissenting.

¶ 46 I dissent. In my view, the manifest weight of the evidence suggests that the decedent's death was causally related to CWP, which he contracted as a result of his exposure to coal dust during his employment. The majority casts this case as a simple battle between medical experts and defers to the Commission's decision to credit the opinions of Drs. McClintock and Selby of those of Dr. Goodwin. In my view, however, Dr. Goodwin's opinion rested on a stronger foundation and was supported by certain crucial admissions made by Drs. McClintock and Selby.

¶ 47 After conducting an autopsy on the decedent, Dr. Goodwin opined that the decedent had both simple CWP and complicated CWP (also known as progressive massive fibrosis), and that the basic cause of the decedent's CWP was the inhalation of coal dust. Dr. Goodwin also opined that the decedent's CWP made it more difficult for him to survive the aspiration pneumonia that ultimately killed him. Although Dr. McClintock, the decedent's treating physician, did not believe that the decedent's aspiration pneumonia was related to the inhalation of coal dust, he conceded that CWP could make it more difficult for an individual to recover from aspiration pneumonia. Moreover, although Dr. McClintock never diagnosed the decedent with CWP, he testified that if an autopsy revealed that the decedent had CWP, he would defer to the pathologist's finding.

¶ 48 Dr. Selby found "no evidence" that the decedent had clinical CWP. However, Dr. Selby based this conclusion on his review of the decedent's medical records, including radiographic studies and the history of the decedent's clinical symptoms and treatment. Unlike Dr. Goodwin, Dr. Selby did not conduct an autopsy. Moreover, Dr. Selby acknowledged that Dr. Goodwin's autopsy findings showed evidence of coal dust inhalation, coal macules, some early fibrosis, and the "bare minimum requirements" for complicated pneumoconiosis. Dr. Selby also admitted that

if an individual has significant, chronic underlying lung disease, that condition could affect his ability to recover from aspiration pneumonia.

¶ 49 In sum, Dr. Goodwin was the only doctor to conduct an autopsy, and he found evidence of CWP. Dr. Selby admitted that Dr. Goodwin found evidence of CWP during the autopsy, and Dr. McClintock stated that he would defer to a pathologist's finding of CWP after an autopsy. Dr. Selby tried to diminish the significance of Dr. Goodwin's autopsy findings by noting that the decedent's CWP did not appear "radiographically" or in clinical testing. However, Dr. Selby did not and could not deny the autopsy evidence of CWP. In fact, he acknowledged it. In addition, Dr. McClintock suggested that CWP could not be diagnosed radiographically but could only be diagnosed by an autopsy. Further, each of the doctors suggested that a significant, chronic lung disease like CWP could make it more difficult for a person to recover from aspiration pneumonia.

¶ 50 Thus, in my view, the overwhelming weight of the evidence in this case supports Dr. Goodwin's causation opinion. He was the only doctor to conduct an autopsy, and the other testifying physicians did not dispute his autopsy findings. Drs. McClintock and Selby did dispute Dr. Goodwin's causation opinion, but only Dr. Goodwin's opinion was based on an autopsy. Moreover, as shown above, Drs. McClintock and Selby made important admissions that supported Dr. Goodwin's opinion and undermined the bases for their own opinions. Accordingly, I would reverse.