2015 IL App (5th) 140324WC-U
No. 5-14-0324WC
Order filed April 28, 2015

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

BRENT STANLEY, Petitioner-Appellant, v. WORKERS' COMPENSATION COMMISSION, *et al.*, (Harrisburg Police Department, Appellee).	))))))))))	Appeal from the Circuit Court of Saline County. No. 13-MR-38 Honorable Todd D. Lambert, Judge, Presiding.

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

ORDER

¶ 1 *Held*: Claimant did not carry burden on appeal of showing that Commission's decision on causation was contrary to the manifest weight of the evidence.

¶ 2 Claimant, Brent Stanley, appeals an order of the circuit court of Saline County confirming a decision of the Illinois Workers' Compensation Commission (Commission) denying him benefits under the Illinois Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq*. (West 2002)). For the reasons that follow, we affirm.

¶ 3 The Commission denied claimant's application for benefits on two bases: that he failed to prove accident and that he failed to prove causation. Both, of course, are necessary elements of a claim under the Act. See *Absolute Cleaning/SVMBL v. Illinois Workers' Compensation Comm'n*, 409 Ill. App. 3d 463, 470 (2011). As we determine that the Commission's decision regarding causation is not against the manifest weight of the evidence, we need not address its additional finding regarding accident.

¶ 4 On March 3, 2012, claimant was injured when he was forced to park his car on an incline. He had to use his foot to keep the car's door from closing. As he reached to retrieve some items from within the car, the car's door closed, striking him in the left arm and shoulder. He felt immediate discomfort in his left shoulder and deltoid area. He initially did not believe the injury was significant, so he did not seek treatment. Four days after the accident, he was seen at Primary Care Group for an unrelated condition. There is no reference in the records of that visit of claimant mentioning his alleged accident. It was not until approximately four weeks after the accident that claimant sought care for his shoulder.

¶ 5 Initially, the Commission found that claimant's accident did not arise out of his employment. See *Illinois Institute of Technology Research Institute v. Industrial Comm'n*, 314 Ill. App. 3d 149, 163 (2000). Regarding causation, the Commission found as follows:

> "Furthermore, [claimant] failed to prove that his current condition of ill-being in his cervical spine and left shoulder is causally related to the March 3, 2012 accident. The evidence shows that [claimant] suffers from widespread degenerative changes in the shoulder joint. However there is no evidence that [claimant] sustained any significant injury to his left shoulder on March 3, 2012 that could have caused an aggravation of his preexisting condition. Only a few days after the accident, [claimant] received medical

> treatment for an unrelated condition and not only failed to report a recent injury but furthermore received an injection into the exact area of his arm which was allegedly traumatized by a direct blow. We find it significant that [claimant] has longstanding left elbow problems relating to prior injuries and arthritis. The EMG/NCV identified nerve entrapment at the left elbow and hand, which may explain the fourth and fifth finger paresthesias that are his primary complaint. Even if a compensable accident had occurred on March 3, 2012, there remains a lack of persuasive evidence that the accident is causally related to any of the conditions for which Dr. Lehman is currently treating [claimant]."

Quite simply, the Commission found that claimant failed to carry his burden of proof.

¶ 6 Causation, of course, presents a question of fact. *Land & Lakes Co. v. Industrial Comm'n*, 359 Ill. App. 3d 582, 592 (2005). It is primarily for the Commission to weigh and resolve conflicts in the evidence, assess the credibility of witnesses, and draw inferences from the record. *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 206-07 (2003). We may not substitute our judgment for the Commission's. *Id*. at 206. Instead, we may disturb the judgment of the Commission only if it is contrary to the manifest weight of the evidence, meaning that an opposite conclusion must be clearly apparent. *Land & Lakes Co.*, 359 Ill. App. 3d at 592. Finally, we owe particular deference to the Commission regarding medical matters, where its expertise has long been recognized. *Long v. Industrial Comm'n*, 76 Ill. 2d 561, 566 (1979).

¶ 7 Petitioner contends that the Commission's decision is against the manifest weight of the evidence. He points to two items of evidence that support his position, specifically, that his medical records reflect he consistently reported a work-related injury and that Dr. Lehman opined that his condition was work related. Petitioner then attacks the Commission's decision,

first asserting that the Commission "did not question the quality of Lehman's opinion but instead relied on 'evidence' of a pre-existing condition." This is not accurate. While the Commission did discuss claimant's preexisting problems with his left arm and shoulder, it also stated, "Even if a compensable accident had occurred on March 3, 2012, there remains a lack of persuasive evidence that the accident is causally related to any of the conditions for which Dr. Lehman is currently treating [claimant]." Thus, the Commission found, generally, that claimant presented no persuasive evidence. Since Lehman's opinion was part of the evidence presented by claimant, the Commission implicitly found it unpersuasive. In other words, the Commission did make a finding concerning the "quality of Lehman's opinion."

¶ 8 Petitioner further complains that the Commission acted "as some kind of super expert" in that it based its ruling on the existence of a preexisting condition absent medical testimony establishing that the prior condition is the cause of claimant's current symptoms. He cites *Brown v. Baker*, 284 Ill. App. 3d 401 (1996), in support. This choice of supporting authority reflects a fundamental misunderstanding of the role of the Commission in a workers' compensation case. *Brown* is a civil case; as such, it was tried before an ordinary fact finder. The Commission, on the other hand, is an administrative tribunal that hears only workers' compensation cases and deals extensively with medical issues. See *Krantz v. Industrial Comm'n*, 289 Ill. App. 3d 447, 450-51 (1997) (quoting *Michelson v. Industrial Comm'n*, 375 Ill. 462, 466 (1941) ("The [C]ommission is an administrative body created by legislative enactment for the purpose of administering the Workmen's Compensation [A]ct.")). The Commission possesses inherent expertise regarding medical issues. *Long*, 76 Ill. 2d at 566. As such, *Brown* provides little guidance here, and the fact that the Commission relies on its own expertise to an extent is not *per se* problematic.

¶ 9 More fundamentally, petitioner's criticism would be more cogent if he had set forth evidence establishing causation and the Commission relied on petitioner's preexisting condition in disregarding that evidence. Claimant argues, "One cannot deny causal connection due to a pre-existing condition unless there is medical opinion testimony to show that the old injury is the reason for the current symptoms." We have no quarrel with this proposition generally; however, a claimant still has to establish causation based on credible evidence. That is, the absence of evidence of a preexisting condition does not, in itself, allow an inference that a claimant's condition is due to a work place accident–a claimant must still set forth evidence affirmatively establishing causation. Here, the Commission found that claimant did not do so. It found that claimant's consistently reported history along with Lehman's opinion was not sufficient for claimant to carry his burden of proof.

¶ 10 Claimant argues that as Lehman's was the only medical opinion offered in this case, the Commission was required to accept it. It is well established that the Commission, as finder of fact, is free to reject the testimony of any witness. *Sorenson v. Industrial Comm'n*, 281 Ill. App. 3d 373, 384 (1996) (quoting *Dean v. Industrial Comm'n*, 143 Ill. App. 3d 339, 346 (1986) (Webber, P.J., dissenting) ("What is more important is a basic legal doctrine that a trier of fact, whether a jury, court, arbitrator, or Commission, is always free to disbelieve any witness. If the theory be sound that the trier of fact is bound by unrebutted testimony, then an arbitrator would be forced to find that the earth is flat if such testimony were presented.")); see also *Kraft General Foods v. Industrial Comm'n*, 287 Ill. App. 3d 526, 532 (1997) (holding that an expert's testimony "is not binding on the Commission simply by virtue of the fact it is the sole medical opinion"). In short, claimant fails to demonstrate that this evidence was so persuasive that the

Commission's decision is contrary to the manifest weight of the evidence. As such, he provides no basis for us to disturb its decision.

¶ 11 In light of the foregoing, the order of the circuit court of Saline County confirming the decision of the Commission is affirmed.

¶ 12 Affirmed.