2015 IL App (5th) 140598WC-U
No. 5-14-0598WC
Order filed: November 12, 2015

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

REPUBLIC WASTE and CCSMI,	)	Appeal from the Circuit Court
	)	of Madison County.
Appellants,	)	
	)	
v.	)	No. 14-MR-152
	)	
THE ILLINOIS WORKERS COMPENSATION	)	
COMMISSION, *et al.*	)	Honorable
	)	Donald M. Flack,
(David Summers, Appellee).	)	Judge, Presiding.

JUSTICE HUDSON delivered the judgment of the court.

Presiding Justice Holdridge and Justices Hoffman, Harris, and Stewart concurred in the judgment.

ORDER

¶ 1 *Held*: The Illinois Workers' Compensation Commission's decisions regarding accident, causation, and temporary total disability were not contrary to the manifest weight of the evidence where they were supported by, *inter alia*, claimant's testimony, the testimony of his treating physician, and, to an extent, by respondent's independent medical examiner and countervailing evidence did not point to an opposite conclusion that was clearly apparent.

¶ 2 I. INTRODUCTION

¶ 3 Respondent, Republic Waste, appeals a decision of the Illinois Workers' Compensation Commission (Commission) granting certain benefits to claimant, David Summers, in accordance with the Illinois Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2010)). The Commission found claimant injured his back while in the employ of respondent, awarding claimant temporary total disability (TTD) in the amount of $654.58 per week for a period of 54 and 2/7 weeks as well as incurred and prospective medical expenses. In light of the following, we affirm and remand pursuant to *Thomas v. Industrial Comm'n*, 78 Ill. 2d 327 (1980).

¶ 4 Before proceeding further, we note that respondent occasionally advances some brief arguments in the course of making its main arguments. For example, at the end of its argument on causation regarding the opinion of claimant's treating physician, it makes a two-sentence argument regarding the physician's medical bills being inadmissible. Such arguments are undeveloped, are forfeited for not citing legal authority (*Kic v. Bianucci*, 2011 IL App (1st) 100622, ¶ 23), and will not be considered further. We also note that both parties frequently fail to cite the record in support of factual assertions they make in the course of making their respective arguments. This violates Illinois Supreme Court Rule 341(h)(7) (eff. Feb. 6, 2013), which plainly states that a brief shall contain "[a]rgument, which shall contain the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on." We will disregard any such unsupported factual assertions.

¶ 5 II. BACKGROUND

¶ 6 During a section 19(b) hearing which was held on March 27, 2013, claimant testified that he was a 45-year-old diesel mechanic. He had been employed by respondent for "[a] little over eight years." Claimant testified that on October 4, 2011, he was working under a vehicle using a

creeper (a plastic or wood device with six wheels used to slide under a vehicle). He felt a pop in his back. As claimant continued to work that day, his back got sore. He saw his doctor the next day. Claimant had previously scheduled an appointment that day for another condition, but he spoke with his doctor about the incident. Respondent directed him to go to Midwest Occupational Medicine on that day as well, where he saw Dr. Dirkers. Dirkers placed claimant on light duty and later ordered an MRI, which was performed on November 21, 2011. Dirkers referred claimant to Dr. Kaylea Boutwell, who performed a series of epidural steroid injections. They provided partial relief for a while.

¶ 7 Subsequently, claimant saw Dr. Mark Eavenson, who referred him to Dr. Matthew Gornet. Claimant first saw Gornet in January 2012. Gornet ordered physical therapy and more injections. Claimant remained on light duty. On February 22, 2012, Gornet released claimant to full duty on a "trial basis to see if [claimant's] back would withstand the pressure of the job." At the time, claimant was still experiencing symptoms on a daily basis, and he was instructed to contact Gornet's office if he had any issues.

¶ 8 Claimant testified that he called the office on March 9, 2012. He talked to a secretary at 9:50 a.m. and described his symptoms. Pain was starting in his back and working down into his hip and legs. His symptoms got worse after he returned to full-duty work. Claimant reported to work at noon on March 9. He was taken off duty that day. Claimant saw Gornet on March 26, 2012. Gornet recommended a microdiscectomy (as of the time of the hearing, claimant had not undergone this procedure). In June 2012, Gornet placed claimant on light duty; however, respondent did not allow him to return in such a capacity.

¶ 9 Medical records from Midwest Occupational from October 13, 2011, document that claimant reported "an occasional shooting pain into the left lateral thigh." Subsequently, his

symptoms became more persistent. His left leg is worse than his right, but both are symptomatic.

¶ 10 On cross-examination, claimant acknowledged that he has helped his mother care for her horses by feeding and watering them. Claimant filled out an incident report on the day following his injury. That report states he was injured when he "stood up from installing slack adjusters" in a truck. His pain progressed throughout his shift. He agreed that the statement does not mention a popping sensation while on a creeper board. In the week leading up to March 9, 2012 (his last day of full-duty work), claimant was reprimanded about using lynch pins and cotter pins. He arrived at work at noon on March 9. Later in his shift, he was informed that he was "being written up for basically a mechanical failure and failure to follow instructions on the mechanical duties of a lynch press." Claimant did not recall informing his supervisor that his back was "acting up" about 45 minutes after the reprimand. When asked whether he called his doctor at that time, he stated that he did not and that his doctor's office called him. They were returning a call he made to them prior to beginning his shift that day. He also informed the day supervisor that he was having problems with his back at the time he commenced his shift on March 9. Claimant acknowledged that he had had a discussion with David Loge (his supervisor) on March 7 about lynch pins and cotter pins.

¶ 11 Respondent had a videotape of claimant moving a washing machine. Claimant acknowledged that it was, in fact, him in the recording. He explained that he did not actually lift the washing machine; rather, he let it roll off the tail gate of a truck. Claimant did not have back pain prior to October 4, 2011. Claimant filed a union grievance over being written up.

¶ 12 On redirect-examination, claimant stated that he had not hurt himself moving the washing machine. Claimant explained that he was not alleging a new injury. He clarified that he initially

felt a pop while on the creeper, but continued to work. His back worsened throughout the day. Later, as he bent up from working on a truck, "it really felt that [his] back was hurting." Claimant's pain was at its worst at the time he finished installing slack adjusters in the truck.

¶ 13 Respondent then called a private investigator it retained to conduct surveillance on claimant. He identified a video recording showing claimant moving a washing machine. Claimant lowered the machine from the back of a truck and "walked it next to a dumpster." He followed claimant to a gas station, where he observed claimant purchase gasoline. He never observed anything that indicated claimant was in pain.

¶ 14 David Loge, claimant's supervisor, next testified for respondent. In the week leading up to March 9, 2012, claimant had failed to do a job that he had been instructed to do. After it was brought to Loge's attention, Loge prepared an "Employee Corrective Action Form," which he gave to claimant at about 5 p.m. on March 9 in the break room. From the time claimant clocked in at noon until the time Loge gave him the form, claimant never reported to Loge that his back was giving him problems. When Loge gave claimant the form, claimant became upset. Loge left the break room, and claimant remained there for a while. Claimant then came out about 20 minutes later and told Loge that his back was hurting and that "he was getting ahold of his doctor." Subsequently, an off-work slip was faxed from claimant's doctor's office. Loge denied that he and claimant spoke about claimant being on call the next day, and Loge noted that records indicate that claimant was paid for that duty. Outside of the write-up, claimant was performing his duties satisfactorily after he returned to full duty on February 22, 2012.

¶ 15 During cross-examination, Loge acknowledged that he was present when the off-work slip was faxed over by claimant's doctor's office. He stated he did not know whether claimant had been erroneously paid for being on call on March 10, 2012. According to Loge, claimant

never told him he was having a problem with his back prior to March 9, 2012. In fact, no one on light duty had ever complained to Loge about an injury. This is because, Loge explained, he "usually [doesn't] talk to them." Loge did not fill out an accident report on March 9 because claimant's condition was not caused by a new injury.

¶ 16 The evidence deposition of Dr. Matthew Gornet, which was taken on October 3, 2012, was admitted into evidence. Gornet testified that he is an orthopedic surgeon who focuses on spinal surgery. He treated claimant, first seeing him on January 6, 2012. Claimant was 43 years old at the time. Claimant was referred by Dr. Eavenson, a chiropractor. Claimant told Gornet that he was lying under a truck on October 4, 2011, when he reached upwards and "felt a pop in his back." Initially, the pain was mild, and it progressed throughout the day.

¶ 17 Gornet conducted a physical examination of claimant. He noted a decrease in ankle dorsal flexion and back pain on straight leg raising. He also reviewed an MRI of "moderate to poor quality." The MRI "did reveal a lateral disc herniation" at L4-L5, and "a possible small protrusion" at L3-L4. Gornet diagnosed a disc herniation at L4-L5. Gornet recommended claimant receive injections and if they failed to provide relief, a microdiscectomy. Gornet again examined claimant on February 9, 2012. Claimant's condition had improved following injections, and Gornet recommended further conservative measures, which appeared to be working, and a return to full duty on February 20. However, Gornet emphasized the claimant was not at maximum medical improvement (MMI) and explained that if claimant's condition deteriorated, surgery might be necessary. However, Gornet felt that "it was worthwhile giving him a trial of return to work full duty." Gornet's records reflect that claimant called on March 9, 2012, complaining of increased pain. Gornet took claimant off duty until June 26, 2012, at which time he placed claimant on light duty.

¶ 18 Gornet opined that the incident of October 4, 2011 "is directly causally connected to [claimant's] disc pathology and subsequent symptoms and requirement for surgical treatment." Claimant's short return to full duty did not break the causal chain, Gornet continued. Medical treatment to date had been reasonable and necessary, as had the charges for it. Going forward, Gornet recommended, *inter alia*, a CT scan, an MRI, a microdiscectomy, and possibly the implantation of a stabilizer.

¶ 19 During cross-examination, Gornet stated he did not know how claimant came under Eavenson's care. X-rays revealed no additional abnormalities. All muscle groups except those involved in ankle dorsal flexion were normal, as were deep tendon reflexes. No palpable muscles spasms were present. He disagreed with the radiologist that read claimant's MRI that there were degenerative changes beyond mild arthritis at L4-L5 and characterized claimant's spine as being "relatively pristine." Gornet did not prescribe narcotics. He could not tell whether others had prescribed more conservative medications to help claimant deal with his condition. The telephone conversation documented on March 9 was between claimant and Gornet's physician's assistant, Allison Joggerst. Gornet was not aware that claimant had been reprimanded about his job performance on March 9. Claimant's symptoms were consistent and there were therefore "multiple areas of objective evidence that would support what" claimant described to Gornet. While minor arthritis and deficiencies in disc hydration may have preexisted claimant's at-work accident, Gornet was "absolutely convinced" that the herniation happened at that time. Gornet agreed that the mere fact that an MRI shows a herniation does not render a patient a surgical candidate in itself.

¶ 20 The evidence deposition of Dr. David Lange was also admitted. Lange testified that he is board certified in orthopedic surgery. He examined claimant on December 3, 2012, at

respondent's request. Claimant told Lange that he was in an awkward position working on a garbage truck when he felt a pop in his back. Claimant's back worsened as he bent to work on other vehicles later in the day. Claimant told him that conservative treatment had achieved "fair" results and that he had returned to full duty on a trial basis. Claimant stated he had experienced no further traumatic events that could have aggravated his position.

¶ 21 During his examination of claimant, Lange observed "long tract signs." Long tract signs are a neurological phenomena that have nothing to do with a person's lower back. Objectively speaking, Lange opined, claimant's lower back was benign. Lange reviewed claimant's MRI, which he stated was of "less than ideal diagnostic quality." He believed that it showed only degenerative changes. When asked whether he reached "an opinion within a reasonable degree of medical and scientific certainty as to what diagnosis [claimant] would have," Lange replied that he had. He went on to explain:

> "[H]e obviously had had ongoing what we call axial low back pain, that means mechanical low back pain, from a subjective point of view. As to his lower extremity symptoms, I thought that potentially the left-legged symptoms might be radicular in nature, but that is as far as I could go, might be."

However, he also opined that there were no "abnormal neurologic and clinical signs and findings to support a diagnosis of left-sided radiculopathy or radicular pain from the discs." Lange conceded that if one accepted claimant's history of the injury, it would suggest that his symptomatology was the result of a traumatic injury. Based on claimant's subjective complaints, Lange would restrict him to "the medium physical demand level."

¶ 22 On cross-examination, Lange stated that during his examination of claimant, he noted lumbar flexion to be 75 degrees. Lange testified that 90 degrees was normal. He further agreed

that his report indicated that in "no sense is [claimant's] lower lumbar region normal." Indeed, claimant needs "a better workup before [Lange] would release him at maximum medical improvement or make firm *** recommendations regarding treatment." Lange stated that while the MRI was of "less than diagnostic quality," "it was clear enough for [him] to understand the area of concern." On redirect-examination, he reiterated that it was not clear enough to diagnose a herniation.

¶ 23 The arbitrator found that claimant sustained an accidental injury arising out of and in the course of his employment with respondent. The arbitrator expressly based his decision on the testimony of claimant, Gornet, and Lange as well as claimant's medical records. The arbitrator noted that claimant's account of the events of October 4, 2011 (the date of the accident), were unrefuted and consistent with the medical records. The arbitrator further found claimant's condition of ill-being was causally related to his at-work accident on the same bases. He further noted that Lange did not refute Gornet's finding of causation and that no other evidence was presented to the contrary. He also ordered respondent to pay for prospective medical treatment, including possible surgery and for reasonable and necessary medical expenses already incurred. Finally, the arbitrator awarded claimant TTD in the amount of $654.58 per week for a period of 54 and 2/7 weeks. The Commission affirmed, adopting the decision of the arbitrator in its entirety, and remanded in accordance with *Thomas*, 78 Ill. 2d 327.

¶ 24 III. ANALYSIS

¶ 25 On appeal respondent raises three primary issues. First, it contends that the Commission erred by finding claimant sustained a work-related accidental injury. Respondent asserts this first issue presents a question of law; however, as we explain below, it is actually a factual issue.

Second, respondent asserts the Commission's finding of causation was error. Third, respondent contests the Commission's award of TTD.

¶ 26 All of the issues raised by respondent present questions of fact; consequently, the following principles apply. We conduct review using the manifest weight standard. *Durand v. Industrial Comm'n,* 224 Ill. 2d 53, 64 (2006). We will reverse only if an opposite conclusion is clearly apparent. *Id*. Weighing evidence, assessing credibility, drawing inferences from the evidence, and resolving conflicts in the record are primarily matters for the Commission. *C. Iber & Sons, Inc. v. Industrial Comm'n,* 81 Ill. 2d 130, 136 (1980). We owe significant deference to the Commission's findings, particularly on medical issues where its expertise is well recognized. *Bennett Auto Rebuilders v. Industrial Comm'n,* 306 Ill. App. 3d 650, 655 (1999); *Long v Industrial Comm'n,* 76 Ill. 2d 561, 566 (1979). With these standards in mind, we now turn to the issues raised by respondent.

¶ 27 A. ACCIDENT

¶ 28 Respondent first contends claimant failed to prove that he suffered a work-related accident. Of course, to recover under Act, a claimant must show that he suffered an injury arising out of and in the course of employment. *Springfield Urban League v. Illinois Workers' Compensation Comm'n,* 2013 IL App (4th) 120219WC, ¶ 25. Though respondent suggests that this issue presents a question of law, its argument begins as an extended attack upon claimant's credibility.

¶ 29 First, respondent asserts that claimant gave inconsistent histories regarding how his injury occurred. On the day after the injury, respondent points out, claimant filled out an incident report that makes no mention of his feeling a popping sensation in his back. It simply states that he felt "some discomfort in [the] lower left side of [his] back" as he stood up from installing

"slacks." A year and a half later, when he testified in the instant case, he reported that he felt a pop in his lower back while lying on a creeper under a truck. Respondent then contends that a few minutes after this testimony, he "amended his testimony again," stating that he had been bending over changing a slack adjuster when the injury occurred. No popping sensation was reported when claimant initially saw his primary care physician following the incident (which, we note, was during a visit for an unrelated condition) or to Midwest Occupational Medicine—where he was sent by his employer. However, on December 4, 2011, he reported feeling a pop when he first saw Dr. Kaylea Boutwell.

¶ 30 The Commission could have reasonably determined that these purported discrepancies were the result of claimant not giving a *complete* rendition of what happened every time he restated how the accident occurred. Indeed, respondent does not point to any actual inconsistency where claimant reported anything mutually exclusive. Respondent's independent medical examiner, Lange, provided the most complete account of events. He reported that claimant told him that he was in an awkward position working on a garbage truck when he felt a pop in his back and that his back worsened as he bent to work on other vehicles later in the day. The Commission could have concluded that respondent's purported *inconsistency* was actually claimant reporting two events, both of which affected his back, as documented by Lange. In any event, it was for the Commission to determine what effect, if any, this had on claimant's credibility. *C. Iber & Sons, Inc.*, 81 Ill. 2d at 136.

¶ 31 Without citation to authority, respondent briefly contends that claimant was engaged in an activity that the general public engages in to the same extent, *i.e.*, "noticing discomfort in one's lower back during *activities of daily living*." (Emphasis added.) Respondent's question

begging notwithstanding, this argument is forfeited as it is not supported with legal authority. *Kic*, 2011 IL App (1st) 100622, ¶ 23.

¶ 32 Respondent then turns to Gornet's credibility. It asserts that Gornet was not aware that claimant had been disciplined by respondent, had fed and watered his mother's horses, and had moved a washing machine. At most, such issues are relevant to the weight to which Gornet's opinions are entitled, a matter primarily for the Commission. *City of Chicago v. Industrial Comm'n*, 59 Ill. 2d 284, 288 (1974). It also claims that claimant had degenerative changes in his back. However, there was evidence to the contrary, which the Commission could have credited, namely, Gornet testified that claimant's spine was "relatively pristine."

¶ 33 Respondent asserts that the Commission ignored the testimony of Loge; we find it likely that the Commission found it to be entitled to so little weight as to not warrant mentioning. Respondent makes much of the fact that claimant was disciplined on March 9, the day he contacted Gornet's office after his condition worsened as he worked full duty. Respondent implies claimant was retaliating for being disciplined. However, this argument is completely undermined by the fact that claimant attempted to contact Gornet before he was disciplined. Claimant testified that he called Gornet's office at 9:50 a.m. before his shift commenced at noon on March 9. The Commission found claimant credible, and his testimony was corroborated by telephone company records which show a four-minute call from claimant's cellular telephone to Gornet's office at this time. Records maintained by Gornet's office also reflect a call from claimant. Respondent points out that these records do not document the substance of the conversation. While true, they nevertheless confirm that the call was made prior to respondent receiving a reprimand.

¶ 34 Respondent also points to a conflict in the testimony between Loge and claimant as to whether claimant was on call the day after the accident. Conflicts in the record are primarily for the Commission to resolve (*C. Iber & Sons, Inc.*, 81 Ill. 2d at 136), and respondent provides us with no reason why the Commission had to give effect to Loge's testimony over claimant's. Respondent finally asserts that claimant never told Loge about having a back problem on March 9, 2012, until after receiving the reprimand. Respondent claims that this is established because no accident report was ever filled out that day, which, it claims, was the standard procedure. This argument is disingenuous. Loge testified that he did not fill out an accident report on March 9 because claimant's condition was not caused by a new injury.

¶ 35 Respondent also points to the testimony of its private investigator, who filmed claimant moving a washing machine. We do not find it surprising that claimant was able to do this, as he was able to return to work at full duty for a time. The private investigator testified that claimant did not limp or appear to be in pain, so the Commission could have inferred that this activity did not have an adverse effect on claimant's back. More importantly, respondent cites no case law supporting nor does it attempt to develop an injurious-practices argument. See *Keystone Steel & Wire Co. v. Industrial Comm'n*, 72 Ill. 2d 474, 481 (1978).

¶ 36 Finally, citing *Baldwin v. Illinois Workers' Compensation Comm'n*, 409 Ill. App. 3d 472, 479 (2011), respondent contends claimant set forth no evidence beyond the fact that he "noticed the onset of discomfort in his lower back at work." We disagree. Claimant testified that discomfort initially occurred as he was on a creeper, beneath a truck, working over his body, installing a torque rod. Subsequently, as he was bending over and working on slack adjusters and brakes, the discomfort worsened. Gornet opined that these activities caused claimant's back

injury. As such, claimant set forth evidence from which the Commission could conclude he suffered an at-work injury.

¶ 37 In short, we find none of respondent's arguments regarding accident persuasive.

¶ 38 B. CAUSATION

¶ 39 Respondent next argues that claimant's condition of ill-being is not causally related to his at-work injury. Causation presents a question of fact subject to the standards of review set forth above. *Teska v. Industrial Comm'n*, 266 Ill. App. 3d 740, 741 (1994). Respondent's argument is, in fact, a lengthy invitation for us to reweigh the evidence and substitute our judgment of the Commission—things we may not do (*Setzekorn v. Industrial Comm'n*, 353 Ill. App. 3d 1049, 1055 (2004)).

¶ 40 Respondent again attacks Gornet's credibility in a similar fashion as discussed above, and we find those attacks no more persuasive in this context. It also attempts to establish that Loge's opinion is entitled to more weight. Resolving conflicts in medical evidence is an area in which we owe a particularly high degree of deference to the Commission (*Long v. Industrial Comm'n*, 76 Ill. 2d 561, 566 (1979)), and we perceive no reason to disturb the Commission's judgment on such issues in this case. Respondent again raises the issue of claimant's being on call the day after the accident, a matter on which there was conflicting testimony. It points out claimant helped feed and water his mother's horses but sets forth no evidence regarding how strenuous this activity was or what exactly claimant's role was in it (on appeal, respondent, as the appellant, bears the burden of establishing error (*TSP-Hope, Inc. v. Home Innovators of Illinois, LLC*, 382 Ill. App. 3d 1171, 1173 (2008))). While claimant's moving a washing machine favors respondent to some extent, as we explained above, we do not find this point particularly persuasive. As noted, the private investigator stated that he did not observe any indication of

pain or discomfort when he observed claimant, so it is inferable that moving the washer had no ill effect on claimant. Moreover, to the extent respondent suggests this shows claimant was capable of performing full-duty work, respondent does not explain why the Commission was required to equate moving a washing machine on one occasion with the ability to work an eight-hour shift.

¶ 41 Most importantly, Gornet opined unequivocally that the incident of October 4, 2011 "is directly causally connected to [claimant's] disc pathology and subsequent symptoms and requirement for surgical treatment." Lange opined conversely; however, he also stated that if one accepted claimant's history of the injury, it would suggest that his symptomatology was the result of a traumatic injury. Thus, since the Commission credited claimant's testimony, Lange's opinion supports its decision as well. We note that even Lange agreed that full duty would be inappropriate for claimant, opining that he could perform work at the medium physical demand level. We agree with respondent that there was evidence that claimant had a preexisting degenerative condition (mild arthritis); however, there was also evidence that claimant suffered a disc herniation on October 4, 2011.

¶ 42 Respondent claims that the evidence conclusively establishes that claimant's condition resolved by February 20, 2012, when Gornet released him to full duty. We find respondent's disingenuity and lack of candor disturbing. Claimant testified Gornet released him to full duty on a "trial basis to see if [claimant's] back would withstand the pressure of the job." Gornet testified that he felt that "it was worthwhile giving him a trial of return to work full duty." Additionally, claimant reported this to Lange, and Lange mentions in his deposition that claimant was returned to full duty on a trial basis. It is difficult for us to see how respondent could have

overlooked such plain testimony. In any event, given the nature of claimant's return to full duty, it certainly does not support an inference that claimant's condition had resolved by this time.

¶ 43 To conclude, respondent has not carried its burden on appeal of showing that an opposite conclusion to the Commission's is clearly apparent.

¶ 44 C. TTD

¶ 45 In this argument, respondent repackages several of its earlier arguments in the context of the TTD award. In order to be entitled to TTD, a claimant must show that he *could not* work—not merely that he *did not* work. *Ming Auto Body/Ming of Decatur, Inc. v. Industrial Comm'n*, 387 Ill. App. 3d 244, 256 (2008). Whether a claimant is entitled to TTD presents a question of fact, subject to review using the manifest-weight standard discussed above. *Id*.

¶ 46 Respondent first asserts that claimant was returned to full duty on February 20, 2012. As noted, that return to work was provisional. Claimant admitted that he fed and watered his mother's horses; however, no evidence indicates what this required claimant to do. He moved a washing machine on one occasion, which favors respondent to a degree but not enough for us to say that an opposite conclusion is clearly apparent. Respondent again asserts that claimant was retaliating for being disciplined on March 9, 2012, by contacting Gornet's office, but claimant's testimony, corroborated by telephone records, indicates he first contacted the office prior to being reprimanded. We have already considered and rejected all of these arguments.

¶ 47 Respondent further contends that the off-work slip faxed to it by Gornet's office on March 9 was signed by Gornet's assistant rather than Gornet or another physician and points out that it was issued without Gornet having conducted a physical examination of claimant. Respondent cites no legal authority in support of this proposition, and we deem it forfeited. *Kic v. Bianucci*, 2011 IL App (1st) 100622, ¶ 23.

¶ 48 Finally, respondent contends that it "accommodated light duty work between October 4, 2011 and February 20, 2012, and thus there would be no basis to award TTD for this time period." This assertion is supported by neither citation to legal authority nor substantiated by citation to the record. For both reasons, this point is forfeited as well. See *Kic v. Bianucci*, 2011 IL App (1st) 100622, ¶ 23; *People v. Sprind*, 403 Ill. App. 3d 772, 779-80 (2010).

¶ 49 In sum, we find that none of respondent's arguments regarding TTD provide a sufficient basis for us to disturb the decision of the Commission.

¶ 50 IV. CONCLUSION

¶ 51 In light of the foregoing, the judgment of the circuit court of Madison County confirming the decision of the Commission is affirmed. This case is remanded to the Commission in accordance with *Thomas*, 78 Ill. 2d 327.

¶ 52 Affirmed and remanded**.**