2016 IL App (1st) 143280WC-U
No. 1-14-3280WC
Order filed: February 11, 2016

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

GERRESHEIMER GLASS, INC.,	)	Appeal from the Circuit Court
	)	of Cook County.
Plaintiff-Appellant,	)	
	)	
v.	)	No. 13-L-51054
	)	
THE ILLINOIS WORKERS'	)	
COMPENSATION COMMISSION and	)	
DENISE BYRD,	)	Honorable
	)	Carl Anthony Walker,
Defendants-Appellees.	)	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*: (1) The Commission's finding that claimant sustained an accident arising out of and in the course of her employment with respondent is not against the manifest weight of the evidence; (2) the Commission's finding that claimant's current condition of ill-being is causally related to her employment is not against the manifest weight of the evidence; (3) the Commission's award of temporary total disability benefits is not against the manifest weight of the evidence; (4) the Commission's finding that claimant did not exceed her choice of physicians is not against the manifest weight of the evidence; (5) the Commission's award of medical expenses is not against the manifest weight of the evidence; and (6) the

Commission did not err in awarding claimant penalties and attorney fees based on respondent's refusal to pay benefits prior to obtaining an independent medical examination.

¶ 2 I. INTRODUCTION

¶ 3 Respondent, Gerresheimer Glass, Inc., appeals from the judgment of the circuit court of Cook County confirming the decision and opinion on remand of the Illinois Workers' Compensation Commission (Commission). In its decision, the Commission awarded claimant, Denise Byrd, benefits under the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq*. (West 2008)). On appeal, respondent challenges the Commission's findings with respect to accident, causation, temporary total disability benefits, chain of physician referral, medical expenses, and penalties and attorney fees. For the reasons set forth below, we affirm and remand this matter for further proceedings.

¶ 4 II. BACKGROUND

¶ 5 On August 1, 2011, claimant filed an application for adjustment of claim alleging that she sustained injuries to her right leg while working for respondent on June 9, 2011. The matter proceeded to an arbitration hearing pursuant to section 19(b-1) of the Act (820 ILCS 305/19(b-1) (West 2010)). Prior to the arbitration hearing, claimant, noting that respondent refused to authorize medical treatment or pay benefits, filed a petition for penalties and attorney fees pursuant to sections 16, 19(k), and 19(l) of the Act (820 ILCS 305/16, 19(k), 19(l) (West 2010)). The following factual recitation is taken from the testimony and evidence presented at the arbitration hearing, which was held on February 3, 2012.

¶ 6 Claimant worked for respondent at its glass bottle manufacturing plant in Chicago Heights, Illinois for 37 years. At the time of her alleged injury, claimant was employed as a quality-control inspector and worked the night shift from 11 p.m. to 7 a.m. Claimant's position

required her to traverse stairs between the "cold end" of the plant, where the bottles are inspected, and the "hot end" of the plant, where the bottles are fabricated.

¶ 7 Claimant testified that shortly after midnight on June 9, 2011, she twisted her right knee crossing the stairs due to oil (used during the fabrication process) from the "hot end" causing her foot to slip. Claimant explained that she did not fall but "went down on [her] right foot" while grasping the stair railing with both hands. Immediately after the incident, claimant "hobbled" to her desk, sat down, and rubbed her right knee. After a few minutes, claimant felt a little better, so she returned to work. Claimant acknowledged that respondent has a policy requiring employees to "immediately" report work accidents. Claimant testified, however, that she did not file an accident report following this incident because she thought that she would be able to "walk it off, or rest it off" and she "didn't want to cause trouble."

¶ 8 Sometime between 1:00 and 1:30 a.m., claimant punched her time card for a scheduled break. During the break claimant went to the break room, where she elevated her leg and rested. At the end of the break, claimant descended stairs from the break room to the plant floor, where she was required to punch in. Claimant testified that as she went down the stairs, her right knee "totally collapsed." Claimant testified that her right leg felt "significantly worse" after the second incident. Claimant denied any problems with her right knee prior to the two events of June 9, 2011.

¶ 9 After the second incident, claimant notified her supervisor and was transported to the emergency room at St. James Hospital. Emergency room records document an employment accident with the following history: "57 y/o [female] complaining of [right] knee pain after walking down 2 stairs. [Patient] denies trauma or falling on it[,] however [patient] reports a painful sensation when she awkwardly stepped." After undergoing an examination and X rays,

claimant was diagnosed with right knee pain. She was placed in a leg immobilizer, discharged with crutches, and instructed to follow up with Dr. Herbert White, Jr. Claimant was then transported back to respondent's plant.

¶ 10 After returning to the plant, claimant completed an accident report. In the report, claimant wrote that she injured her right knee "[g]oing in to the Hot End" when she "steped [*sic*] on steps" and her "foot sliped [*sic*]." Claimant was then taken to St. James Occupational Health Center, where she treated with Dr. White, the "plant doctor." Dr. White took the following history from claimant:

> "[Claimant] states she was walking and her right leg slipped from a small amount of oil that she had gotten on the bottom of her foot. After she slipped her right knee began to give out. She denies any previous history of injury to the knee."

Upon examination of the right knee, Dr. White noted mild swelling, moderate tenderness to palpation along the anterior knee, mildly positive McMurray's and Drawer's tests, and a mildly antalgic gait favoring the right lower extremity. Dr. White diagnosed a right knee strain. He allowed claimant to return to work at a "sitting job only with minimal walking" and instructed claimant to wear a splint at work. Claimant returned to work the next day, but was suspended and later terminated for failing to immediately report the first of the two incidents occurring on June 9, 2011.

¶ 11 Claimant followed up with Dr. Savio Manatt on June 29, 2011. At that time, claimant related that her right knee "goes out" intermittently. She also told Dr. Manatt that her work for respondent requires her to stand a lot and that her right knee occasionally lacks control when going down stairs. Dr. Manatt referred claimant to a Dr. Aribindi. Claimant did not treat with Dr. Aribindi. Instead, she sought orthopaedic follow-up care with Dr. Ronald Silver of the

Illinois Bone and Joint Institute. In a letter to respondent dated August 4, 2011, Dr. Silver recounted the following history of injury:

> "On June 9, 2011[, claimant] was working in the factory, there was oil on the floor which got onto her shoe and she was stepping downstairs [*sic*] and she slipped and fell twisting her right knee. Prior to the accident her knee was normal without treatment or symptoms and she had been working full-time without restrictions. She tried to return to work after a twenty minute break and when she stepped down on her leg her right knee completely gave out."

Dr. Silver further noted that, upon examination of the right knee, there was mild effusion, medial joint line tenderness, mild patellofemoral crepitation, and limited range of motion. X rays were normal. Dr. Silver was concerned that claimant had sustained cartilage damage and he ordered an MRI of the right knee. In addition, he prescribed anti-inflammatory medication, pain medication, and a knee brace. Finding claimant to be "temporary disabled," Dr. Silver also authorized claimant off work. The MRI showed a small joint effusion, a complex medial Baker's cyst, and degeneration of the medial meniscus. Upon reviewing the MRI results, Dr. Silver recommended continued conservative care and physical therapy.

¶ 12 Claimant returned to Dr. Silver's office on September 7, 2011. At that time, claimant reported that one week earlier, she stepped down and her right knee locked, causing a recurrence of swelling, pain, and stiffness. Upon examination, Dr. Silver again noted medial joint line tenderness, mild effusion, mild patellofemoral crepitation, and limited range of motion. Dr. Silver reiterated his suspicion that claimant had cartilage damage. In light of claimant's persistent symptoms, Dr. Silver recommended arthroscopic surgery of the right knee.

¶ 13 On October 18, 2011, claimant consulted Dr. Christos Giannoulias of G&T Orthopaedics for her right knee pain. Dr. Giannoulias's notes reflect that claimant "injured herself when she slipped on a step at work back in 07/11." Upon examination of the right knee, Dr. Giannoulias noted a significant amount of tenderness over the medial joint line, pain with circumduction, and slight effusion. An MRI revealed a tear in the medial meniscus, which Dr. Giannoulias diagnosed. Noting that claimant underwent three months of physical therapy without any improvement, Dr. Giannoulias recommended an arthroscopy of the right knee and took claimant off work. On October 28, 2011, claimant underwent right knee surgery to repair a torn meniscus.[1] Following surgery, claimant underwent a course of physical therapy. On January 30, 2012, Dr. Giannoulias released claimant to work with restrictions including no climbing, kneeling, or squatting, and no standing or walking more than one hour at a time.

¶ 14 Michael Stout, claimant's coworker and union representative, explained that there are various motion-activated surveillance cameras inside respondent's plant. At the union's request, respondent showed Stout "a very small portion of the surveillance video." According to Stout, this video showed claimant walking out of the break room and down three or four stairs. There is then a short gap in the video, after which claimant is seen, via another camera, "limping severely." Stout estimated that the activities seen on the surveillance video took place around 12:30 or 1 a.m., but admitted that it could have been later.

¶ 15 Stout testified that at a subsequent meeting, respondent "finally showed *** all the video." Stout testified that the full video showed two separate incidents—the incident seen on

[1] Although the operative report indicates that the surgery involved the left knee, it is undisputed that claimant's treatment related to the right knee.

the video he previously viewed plus earlier footage obtained between 12:15 and 12:30 a.m. on June 9, 2011. At one point, management pointed out a tiny figure in the earlier footage and indicated that the figure was claimant. Stout testified, however, that when he watched the footage, he was unable to discern the gender of the figure, let alone whether it was claimant. He also stated that although management represented that claimant is seen falling down in the earlier footage, he did not observe anyone fall. Management indicated that the severity of the incident seen on the earlier footage was sufficient to warrant the filing of an accident report.

¶ 16 Stout testified that claimant never told him that she fell during the earlier incident. Stout noted that the "hot end" of the plant is "really messy" due to the oil used during the fabrication process. It was Stout's understanding that the first incident occurred as claimant was "going over the staircase" and twisted her knee after slipping on oil tracked from the "hot end" of the plant. Regarding the second incident, it was Stout's understanding that claimant put weight on her leg and twisted her knee again as she was descending stairs. It was after the second incident that claimant reported her injury to respondent. Stout noted that it is not unusual for oil to get on the bottom of someone's shoes when they leave the "hot end" of the plant.

¶ 17 Tim Gricus is employed by respondent as a quality systems manager. Gricus confirmed that respondent has about 15 surveillance cameras throughout its plant which operate 24 hours a day. Gricus testified about segments of video captured by the surveillance cameras at respondent's plant from the night and early morning of June 8-9, 2011. Gricus noted that the video is not entirely in "real time" as certain portions were slowed down and others were sped up. Gricus testified that claimant is first observed on video at 10:44 p.m., when she arrived at work. Gricus further testified that claimant is seen on her production line between 12:15 and 12:30 a.m. At about 12:54 a.m., claimant is seen talking with Lola Malvestuto, the night shift

supervisor. At about 1:15 a.m., claimant is shown walking into the break room. There are no cameras in the break room. Gricus noted that claimant exited the break room shortly after 1:30 a.m. Claimant is seen on the video descending stairs, then limping, grasping a pole attached to the staircase, and punching a time clock. Gricus testified that Malvestuto and another employee are also shown at this point. At about 1:38 a.m., claimant can be seen limping, but at about 1:39 a.m., she is observed walking at a "different" pace until she moves out of camera range.

¶ 18 At respondent's request, claimant underwent an independent medical examination (820 ILCS 305/12 (West 2010)) with Dr. Kevin Walsh, a board-certified orthopaedic surgeon. Dr. Walsh prepared a report of his findings and testified by evidence deposition regarding the same. Dr. Walsh recalled that claimant provided the following history of injury:

> "[Claimant] told me she was a 57-year-old female employed by a pharmaceutical company working in the factory.
>
> She told me there was oil on the floor of this factory. There was both a hot end and a cold end where she works, and she would move from one end to the other end of the factory.
>
> * * *
>
> She told me on the date of the injury, June 9th, 2011, her foot slipped, she heard a crack in her right knee and went down.
>
> She initially had pain and discomfort. She rubbed it. She hopped up. She went on a 20-minute break as scheduled. She elevated her leg.
>
> When she got off the chair, she had to go down three stairs. Her knee gave out a second time. She had to grab hold of the railing as she descend [*sic*] the three stairs."

Claimant denied any prior problems with her right knee. Claimant told Dr. Walsh that she experienced pain with prolonged sitting and standing and that she had difficulty negotiating steps. Claimant also stated that her knee would swell and lock. Dr. Walsh observed claimant ambulate about the room with a limp. Upon examination, Dr. Walsh noted no effusion and no medial or lateral instability, but patellofemoral capitation was present. Respondent had full extension of the knee, but could flex no more than 120 degrees before voicing complaints of pain. Dr. Walsh found no evidence of a torn meniscus or of ligament damage.

¶ 19 Dr. Walsh also reviewed claimant's medical records and diagnostic films. He testified that the history he obtained from claimant was not consistent with the histories claimant related to emergency-room personnel on the morning of the alleged accident or to Dr. White, Dr. Manatt, Dr. Silver, or her physical therapist. According to Dr. Walsh, in some of the histories claimant reports a fall while in others she reports that she did not fall. Dr. Walsh testified that the significance of these inconsistencies is that claimant is a "poor historian." Dr. Walsh stated that the contemporaneous history tends to be the most accurate because it is taken soon after the event.

¶ 20 Dr. Walsh diagnosed right knee pain not causally related to the alleged work events of June 9, 2011. Dr. Walsh acknowledged the presence of patellofemoral crepitation, but attributed this symptom to a preexisting condition. Dr. Walsh determined that claimant did not require any work restrictions as a result of the alleged injury of June 9, 2011. Moreover, Dr. Walsh did not feel that claimant required any additional medical treatment to her right knee as a result of the alleged work injury. According to Dr. Walsh, the record establishes that claimant had preexisting osteoarthritis in her knee and experienced pain at work as a result of this condition and subsequently underwent surgery for her osteoarthritis.

¶ 21 Subsequent to his initial report, Dr. Walsh viewed the surveillance video of petitioner from June 9, 2011, and prepared a supplemental report of his findings. Dr. Walsh testified that he did not observe any incident on the video where claimant suffered any trauma that would cause structural damage to her right knee. Moreover, he did not observe any incident on the video that was consistent with the history of accident as explained to him during his examination.

¶ 22 On cross-examination, Dr. Walsh acknowledged that when taking a history, a physician writes down only what he or she feels is the most significant information. Dr. Walsh also acknowledged that a joint effusion is consistent with trauma and can take three to five hours after injury to present itself, but Dr. Walsh attributed the effusion noted in claimant's treatment records to degenerative changes. Dr. Walsh also stated that the right knee strain diagnosed by Dr. White on June 9, 2011, is probably related to the pain claimant experienced at work. Dr. Walsh testified that he had "no problem" with the work restrictions imposed by Dr. White on the day claimant "present[ed] limping and report[ing] pain." Dr. Walsh agreed that the treatment rendered in the emergency room and by Dr. White was "reasonable for the patient's symptoms." Likewise, he found Dr. Silver's course of treatment, including an MRI, reasonable, although he disagreed that claimant was temporarily disabled as a result of her symptoms. Dr. Walsh did not have a problem with Dr. Silver's recommendation for physical therapy, although he did not feel that it was related to the alleged injury on June 9, 2011. Dr. Walsh was not aware that claimant underwent surgery on October 28, 2011. Dr. Walsh testified, however, that the fact claimant had a medial meniscal tear would not change his opinions.

¶ 23 At the arbitration hearing, claimant testified that she continues to experience problems with prolonged sitting and standing and while sleeping. Nevertheless, she felt that her knee is better than it was prior to surgery. Claimant further testified that after the accident of June 9,

2011, until the date of the arbitration hearing, she has not earned any wages other than the one day after the accident. She also testified that she has not been paid any benefits while off work and she has not had any of her medical bills paid. On cross-examination, claimant acknowledged that she worked on her own as a wedding planner since June 2011. Claimant testified that the wedding took place in August 2011, and the job was scheduled before the June 2011 accident. Claimant denied planning any other weddings since June 2011. Claimant stated that her work as a wedding planner involved "[j]ust telling people where to line up at." Claimant also denied having a limp when she arrived at work on June 9, 2011.

¶ 24 Based on claimant's testimony as well as the initial treatment records, the arbitrator found that claimant sustained an accident arising out of and in the course of her employment with respondent on June 9, 2011. While acknowledging the presence of inconsistencies in the accident histories set forth in the treatment records, the arbitrator found credible claimant's account of the mechanism of the two incidents. In assessing claimant's credibility, the arbitrator assigned weight to the fact that respondent employed claimant for more than 37 years without any indication that claimant was subject to disciplinary action or had difficulty performing her job. The arbitrator concluded that the surveillance video did not provide a "valid basis" for denying benefits in this case. The arbitrator found the video footage to be incomplete regarding the times and areas of the factory included, intentionally slowed down, and difficult to evaluate because claimant could only be seen from a distance at relevant times.

¶ 25 Relying on a "chain of events" theory, claimant's testimony, the treatment records, and a bill from Dr. Giannoulias, the arbitrator found that claimant's condition of ill-being as it relates to her right knee was causally related to the June 9, 2011, accident. The arbitrator also concluded that claimant had not exceeded her choice of physician and therefore ordered

respondent to pay reasonable and necessary medical expenses of $44,262.31 as well as prospective medical care. The arbitrator awarded temporary total disability (TTD) benefits from June 11, 2011 (the date respondent suspended claimant's employment), through February 3, 2012 (the date of the arbitration hearing).

¶ 26 Additionally, the arbitrator found that respondent failed to prove that it acted in an objectively reasonable manner in refusing to pay $904 in medical expenses associated with the treatment provided in the emergency room and by Dr. White on June 9, 2011. As a result, the arbitrator awarded claimant penalties pursuant to section 19(k) of the Act (820 ILCS 305/19(k) (West 2010)) in the amount of $452 (representing 50% of the cost of these expenses), attorney fees pursuant to section 16 of the Act (820 ILCS 305/16 (West 2010)) in the amount of $180.80 (representing 20% of the cost of these expenses), and penalties pursuant to section 19(l) of the Act (820 ILCS 305/19(l) (West 2010)) in the amount of $7,170 (representing $30 per day for the 239 days of nonpayment from June 11, 2011, through the date of the arbitration hearing). The arbitrator also found that respondent failed to prove that it acted in an objectively reasonable manner in refusing to pay TTD benefits between June 11, 2011, and October 6, 2011 (the date of Dr. Walsh's independent medical examination), a period of 16-6/7 weeks. Calculating the value of these TTD benefits at $8,024, the arbitrator awarded claimant additional penalties pursuant to section 19(k) of the Act in the amount of $4,012 (representing 50% of the unpaid TTD benefits) and additional attorney fees pursuant to section 16 of the Act in the amount of $1,604.80 (representing 20% of the unpaid TTD benefits).

¶ 27 The Commission affirmed and adopted the decision of the arbitrator and remanded the matter for further proceedings pursuant to *Thomas v. Industrial Comm'n*, 78 Ill. 2d 327 (1980). On judicial review, however, the circuit court of Cook County remanded the matter, finding that

the Commission's decision "lacks specific findings as to credibility regarding multiple issues." The Commission issued its decision and opinion on remand on October 18, 2013. In its decision, the Commission noted that the arbitrator specifically addressed the issue of credibility throughout her decision. The Commission determined that the arbitrator's credibility findings were supported by the evidence. In addition, the Commission made additional credibility findings and rejected Dr. Walsh's opinion as "not credible or persuasive." As such, the Commission once again affirmed and adopted the decision of the arbitrator. On judicial review, the circuit court confirmed the decision of the Commission. This appeal by respondent followed.

¶ 28 III. ANALYSIS

¶ 29 On appeal, respondent challenges the Commission's findings with respect to accident, causation, period of temporary total disability, chain of physician referrals, medical expenses, and penalties and attorney fees. We address each contention in turn.

¶ 30 A. Accident

¶ 31 Respondent first argues that the Commission erred in finding that claimant sustained an accident arising out of and in the course of her employment with respondent on June 9, 2011.[2] As discussed more fully below, respondent bases its assertion on its contentions that claimant's testimony lacks credibility and is "full of inconsistencies."

[2] In its brief, respondent actually challenges the judgment of the circuit court. We remind respondent, however, that we review the decision of the Commission, not the judgment of the circuit court. *S&C Electric Co. v. Illinois Workers' Compensation Comm'n*, 2015 IL App (1st) 141057WC, ¶ 30.

¶ 32 An employee's injury is compensable under the Act only if it "arises out of" and "in the course of" the employment. *University of Illinois v. Industrial Comm'n*, 365 Ill. App. 3d 906, 910 (2006); *O'Fallon School District No. 90 v. Industrial Comm'n*, 313 Ill. App. 3d 413, 416 (2000). A claimant bears the burden of proving by a preponderance of the evidence both of these elements. *Baldwin v. Illinois Workers' Compensation Comm'n*, 409 Ill. App. 3d 472, 477 (2011); *First Cash Financial Services v. Industrial Comm'n*, 367 Ill. App. 3d 102, 105 (2006). The phrase "in the course of" refers to the time, place, and circumstances of the injury. *Illinois Institute of Technology Research Institute v. Industrial Comm'n*, 314 Ill. App. 3d 149, 162 (2000). Injuries sustained on an employer's premises, or at a place where the employee might reasonably have been while performing his or her duties, and while the employee is at work, are generally deemed to have been received "in the course of" one's employment. *Metropolitan Water Reclamation District of Greater Chicago v. Illinois Workers' Compensation Comm'n*, 407 Ill. App. 3d 1010, 1013-14 (2011). For an injury to "arise out of" one's employment, its origin must be in some risk connected with, or incidental to, the employment so as to create a causal connection between the employment and the accidental injury. *Caterpillar Tractor Co. v. Industrial Comm'n*, 129 Ill. 2d 52, 58 (1989).

¶ 33 The question of whether an employee's injury arose out of and in the course of his employment is one of fact. *Brais v. Illinois Workers' Compensation Comm'n*, 2014 IL App (3d) 120820WC, ¶ 19. With respect to factual matters, it is within the province of the Commission to judge the credibility of the witnesses, resolve conflicts in the evidence, assign weight to be accorded the evidence, and draw reasonable inferences therefrom. *Hosteny v. Illinois Workers' Compensation Comm'n*, 397 Ill. App. 3d 665, 674 (2009). A reviewing court may not substitute its judgment for that of the Commission merely because other inferences from the evidence may

be drawn. *Berry v. Industrial Comm'n*, 99 Ill. 2d 401, 407 (1984). We will not overturn the Commission's determination on a factual matter unless it is against the manifest weight of the evidence. *Mlynarczyk v. Illinois Workers' Compensation Comm'n*, 2013 IL App (3d) 120411WC, ¶ 15. A decision is against the manifest weight of the evidence only if an opposite conclusion is clearly apparent. *Freeman United Coal Mining Co. v. Illinois Workers' Compensation Comm'n*, 2013 IL App (5th) 120564WC, ¶ 21.

¶ 34 In the present case, the Commission determined that claimant sustained a compensable industrial accident. The Commission cited claimant's testimony, which it found credible. The evidence of record supports this conclusion. Claimant denied any problems with her right knee prior to June 9, 2011. Claimant then described two incidents that occurred at work that night. The first incident occurred shortly after midnight as claimant was walking from the "hot end" of the plant, where oil is used as part of the fabrication process, to the "cold end" of the plant, where claimant performs her inspection duties. Claimant testified that her right foot slipped on the stairs as a result of residual oil from the "hot end" that had adhered to her shoe. This resulted in claimant losing her footing and twisting her right knee. After a few minutes of rest, claimant felt somewhat better, so she returned to work. Subsequently, claimant went on a break. During the break, claimant elevated her leg and rested. Claimant testified that after her break, as she was descending the stairs from the break room to the plant floor, her knee "totally collapsed." According to claimant, her right knee felt "significantly worse" following the second incident. Hence, she reported her injury to respondent, and she received medical treatment for her knee. Based on this sequence of events, we find that the Commission could have reasonably concluded that claimant sustained an accident arising out of and in the course of her employment with respondent.

¶ 35 Nevertheless, respondent asserts that claimant's testimony regarding the accident is not corroborated by any witnesses and that it is contradicted by the surveillance video. However, respondent cites to no authority requiring independent corroboration of a claimant's history of accident. To the contrary, it is well settled that a claimant's testimony, standing alone, may be sufficient to support an award of benefits under the Act. See *Seiber v. Industrial Comm'n*, 82 Ill. 2d 87, 97 (1980); *University of Illinois*, 365 Ill. App. 3d at 912.

¶ 36 Moreover, respondent's contention that claimant's testimony regarding the accident is contradicted by the surveillance video is not well founded. Significantly, the Commission reviewed and included a lengthy assessment of the surveillance video in its decision, but found that it did not provide a valid basis for denying benefits in this case. The Commission cited several issues with the surveillance video. It noted, for instance, that the recording does not consist of all of the video recorded at respondent's plant on the night of the accidents, but only of those segments respondent instructed Gricus to bring. The Commission also noted that the footage of claimant's second accident is neither continuous nor taken by a single camera. In addition, the Commission determined that the video was intentionally slowed down and that, at numerous points in the footage, claimant is seen from a substantial distance, thereby making it difficult to evaluate her demeanor and gait. Given the Commission's role as fact finder, we cannot say that its conclusion that the surveillance video provided an insufficient basis for rejecting a finding of accident was improper.

¶ 37 Respondent also maintains that if claimant's story were true, she would have been in such pain after the first accident that she would have notified her supervisor when the two spoke at about 12:54 a.m. However, claimant testified that her right knee pain began to improve after a few minutes, so she continued working. Claimant further explained that she did not report the

first incident because she did not want to cause any trouble and she thought that she could either "walk it off" or "rest it off." In its decision, the Commission found that "[t]he first incident resulted in pain but did not prevent [claimant] from resuming her work while the second [incident] caused the knee to 'collapse.' " In other words, as was its function, the Commission found credible claimant's account of the mechanism of her injury and her rationale for failing to immediately report the accident.

¶ 38 Aside from citing claimant's credible testimony in support of its finding of accident, the Commission also relied on claimant's "initial treatment records." Respondent, however, maintains that the medical records and accident report "demonstrate the inaccuracies of [claimant's] testimony." According to respondent, claimant changed her history of accident each time it was related. As discussed below, however, the Commission could have reasonably concluded that, despite any discrepancies, the accident descriptions in the medical records were sufficiently consistent with claimant's testimony to support a finding of accident.

¶ 39 Respondent asserts that the emergency-room records do not reflect that claimant was involved in two separate incidents or that she slipped because of the presence of oil. The Commission recognized that there were inconsistencies in the histories set forth in the treatment records. Citing to Dr. Walsh's testimony, however, the Commission noted that physicians write down only what is important to them and not a patient's verbatim account. Thus, the Commission reasoned that emergency-room personnel would be less concerned with the occupational cause of an injury than the company physician, Dr. White, who did record that claimant slipped from oil. The Commission further reasoned that "the history taken by Dr. White, the company physician, *on the day of the injury*, is fully consistent with the sequence [claimant] described. Dr. White described the oil/slipping as the first event, *after* which the

'right knee began to give out.' " (Emphasis in original.) These were reasonable inferences from the evidence of record.

¶ 40 The Commission also found that claimant's description of the mechanism of injury was supported by the accident report. The accident report provided that claimant injured her right knee "[g]oing in to the Hot End" when she "steped [*sic*] on steps" and her "foot sliped [*sic*]." While the accident report does not specifically mention oil, the Commission noted that Stout testified regarding the "oily and 'messy' floors at the 'hot end' of Respondent's glass factory." The Commission found Stout's testimony "credible, persuasive and unrebutted." Based on this evidence, the Commission could have reasonably inferred that the presence of oil in the factory contributed to the accident as described in the accident report.

¶ 41 Respondent also argues that claimant failed to report two separate accidents to either Dr. Manatt or Dr. Silver. However, respondent's reliance on Dr. Manatt's treatment record is unpersuasive as it does not include *any* history of injury. It simply contains claimant's chief complaint (right knee "goes out" intermittently), notes that respondent's job for respondent requires her to stand a lot, and provides that claimant's right knee lacks control at times when she descends stairs. Moreover, respondent's claim that Dr. Silver's treatment notes do not document two separate incidents is expressly contradicted by the record. When Dr. Silver initially treated claimant, he recorded the following history of accident:

> "On June 9, 2011[, claimant] was working in the factory, there was oil on the floor which got onto her shoe and she was stepping downstairs [*sic*] and she slipped and fell twisting her right knee. Prior to the accident her knee was normal without treatment or symptoms and she had been working full-time without restrictions. She tried to return

> to work after a twenty minute break and when she stepped down on her leg her right knee completely gave out."

Contrary to respondent's claim, the history set forth in Dr. Silver's record does not document "a single accident which occurred when [claimant] descended stairs, slipped, and fell." Rather, it describes two separate accidents. The first accident occurred when claimant got oil onto her shoe and slipped as she was descending stairs. The second accident occurred following claimant's break when her right knee gave out while stepping down.

¶ 42 In short, the Commission's finding that claimant sustained an accidental injury arising out of and in the course of her employment with respondent on June 9, 2011, is supported by both claimant's testimony (which the Commission found to be credible) and claimant's medical treatment records (which the Commission found to be consistent with her account of the accident). As a conclusion opposite that of the Commission is not clearly apparent, we cannot say that the Commission's finding of accident is against the manifest weight of the evidence.

¶ 43 B. Causation

¶ 44 Next, respondent argues that the Commission's finding that claimant's condition of ill-being was causally related to the alleged accidents of June 9, 2011, is both contrary to law and against the manifest weight of the evidence. According to respondent, claimant has not provided any medical opinion evidence regarding causation. In contrast, respondent asserts that it provided the "unbiased opinion" of Dr. Walsh that claimant's current condition of ill-being is not causally related to claimant's industrial accident.

¶ 45 An employee seeking benefits under the Act has the burden of proving all elements of his or her claim. *Beattie v. Industrial Comm'n*, 276 Ill. App. 3d 446, 449 (1995). Among other things, the employee must establish a causal connection between the employment and the injury

for which he or she seeks benefits. *Boyd Electric v. Dee*, 356 Ill. App. 3d 851, 860 (2005). A causal connection can be established by circumstantial evidence. *International Harvester v. Industrial Comm'n*, 93 Ill. 2d 59, 63-64 (1982). Thus, for instance, a chain of events that demonstrates a previous condition of good health, an accident, and a subsequent injury resulting in disability, may prove a causal nexus between a work accident and an employee's condition of ill-being. *International Harvester*, 93 Ill. 2d at 63-64.

¶ 46 Causation presents an issue of fact. *Caterpillar, Inc. v. Industrial Comm'n*, 228 Ill. App. 3d 288, 293 (1992). In resolving factual matters, it is within the province of the Commission to assess the credibility of the witnesses, resolve conflicts in the evidence, assign weight to be accorded the evidence, and draw reasonable inferences from the evidence. *Hosteny*, 397 Ill. App. 3d at 674. A reviewing court may not substitute its judgment for that of the Commission on such issues merely because other inferences from the evidence may be drawn. *Berry*, 99 Ill. 2d at 407. We review the Commission's factual determinations under the manifest-weight-of-the-evidence standard. *Orsini v. Industrial Comm'n*, 117 Ill. 2d 38, 44 (1987). Thus, we will overturn the Commission's causation finding only if an opposite conclusion is clearly apparent. *Freeman United Coal Mining Co.*, 2013 IL App (5th) 120564WC, ¶ 21.

¶ 47 In this case, the Commission concluded that claimant sustained her burden of establishing a causal connection between her condition of ill-being and the events of June 9, 2011. The Commission based its decision on a "chain of events" citing "[claimant's] credible testimony, the treatment records, [and] Dr. Giannoulias's bills (which state [claimant's] condition is related to her employment, ***)." The evidence of record supports the Commission's finding of causation based on a chain of events. As the Commission noted, there was no evidence that claimant suffered from any prior right knee injuries or problems. Thus, the record demonstrates a

previous condition of good health. While respondent insists that claimant was limping when she arrived at the plant on the night of the injury, the Commission, based on its review of the surveillance video, rejected respondent's position.

¶ 48 The evidence also demonstrates an accident at work and a resulting injury, the other two elements necessary to establish causation based on a chain-of-events theory. As noted above, the Commission found that claimant testified credibly regarding the two incidents which occurred on June 9, 2011, resulting in pain to her right knee. Claimant reported to the emergency room immediately following the second incident. There, she was diagnosed with right knee pain, placed in a leg immobilizer, and discharged with crutches. Later that morning, claimant saw Dr. White. Upon examination, Dr. White noted mild swelling, moderate tenderness to palpation along the anterior knee, mildly positive McMurray's and Drawer's tests, and a mildly antalgic gain favoring the right lower extremity. Dr. White diagnosed a right knee strain. After claimant consulted Dr. Manatt on June 29, 2011, she sought treatment with Dr. Silver. Upon examination, Dr. Silver noted mild effusion, medial joint line tenderness, mild patellofemoral crepitation, and limited range of motion. Dr. Silver ordered an MRI, which indicated a small joint effusion, a complex medial Baker's cyst, and degeneration of the medial meniscus. Dr. Silver recommended continued conservative care, including physical therapy, and later arthroscopic surgery. The physical therapy proved to be unsuccessful, so claimant ultimately underwent arthroscopic surgery by Dr. Giannoulias to repair a torn meniscus in claimant's right knee.

¶ 49 Thus, claimant's previous condition of good health prior to the date of the industrial accident, the presence of symptoms including swelling and tenderness of the right knee shortly after the accident, the diagnoses involving the right knee on the day of the accident, claimant's continued symptoms following the accident, and the presence of a torn meniscus during the

arthroscopy support a finding that the condition of claimant's right knee is causally related to her industrial accident.

¶ 50 Respondent does not directly address the Commission's finding of causation based on a chain of events. Instead, respondent directs us to the testimony of Dr. Walsh. According to respondent, Dr. Walsh's opinion coupled with claimant's shifting narrative of the accident, her denial of trauma in the emergency room, and the surveillance video, all compel reversal of the Commission's causation finding. We disagree.

¶ 51 Although Dr. Walsh opined that claimant's condition of ill-being was not related to the events of June 9, 2011, the Commission was not bound to except Dr. Walsh's opinion. In fact, the Commission described Dr. Walsh's testimony as "not credible or persuasive." Moreover, respondent's remaining claims relate to the existence of an accident (not causation), and, in any event, lack merit. For instance, while the Commission acknowledged that there were inconsistencies in the histories of accident set forth in the treatment records, it determined that these inconsistencies did not provide a basis for "finding [claimant] unworthy of belief." The Commission noted that there was conflicting evidence as to whether claimant fell as a result of the first incident. At the arbitration hearing, claimant testified that she "went down," although she did not fall to the ground. The Commission explained that if claimant informed the treatment providers that she "went down," as she did at the arbitration hearing, this statement could reasonably interpreted to mean that claimant fell. The Commission also noted that while the emergency-room records reflect that claimant denied trauma, a worker does not have to prove a direct trauma to establish an accident. See *General Motors Corp. v. Industrial Comm'n*, 179 Ill. App. 3d 683, 693 (1989) ("The term 'accident' is not a technical legal term, and as it is used in the Act, it is a comprehensive term without boundaries as related to some untoward

event."). The Commission also questioned the accuracy of the video surveillance evidence given the poor quality of the recordings.

¶ 52 In any event, apart from the chain of events (which we agree was sufficient to establish causation), the Commission had before it medical records from which it could reasonably infer that the condition of claimant's right knee was causally related to her employment despite Dr. Walsh's opinion to the contrary. For instance, when claimant saw Dr. Giannoulias on October 18, 2011, he completed a work status report removing claimant from work due to a meniscus tear and recommending surgery. Dr. Giannoulias also checked a box on the work status report indicating that claimant's condition was "WORK/INJURY RELATED." In addition, Dr. Giannoulias's surgical note states that claimant's meniscal tear was the result of a work injury and the health insurance claim forms he completed indicate that claimant's condition is related to her employment. Given such conflicting evidence, and in light of the Commission's role in resolving factual disputes, it was within the province of the Commission to attribute more weight to the opinion of Dr. Giannoulias. Moreover, when coupled with the chain of events set forth above, we cannot say that a conclusion opposite to that of the Commission clearly apparent. Accordingly, the Commission's causation finding was not against the manifest weight of the evidence.

¶ 53 C. Temporary Total Disability Benefits

¶ 54 Respondent also claims that the Commission's award of TTD benefits from June 11, 2011, through February 3, 2012, is contrary to law and against the manifest weight of the evidence. Respondent's sole argument in this regard is premised on the contention that claimant failed to prove that she sustained a work-related injury to her right knee or that her condition of ill-being is causally related to the alleged accidents of June 9, 2011. As noted above, however,

we have determined that the Commission committed no error in finding that claimant sustained a compensable industrial accident or that her current condition of ill-being is causally related to that accident. Hence, we decline respondent's invitation to overturn the award of TTD benefits on the basis that claimant failed to sustain her burden of proving accident or causation.

¶ 55 D. Chain of Physician Referral

¶ 56 Respondent next claims that the Commission erred in finding that claimant did not exceed her choice of physicians under section 8(a) of the Act (820 ILCS 305/8(a) (West 2010)). Section 8(a) of the Act sets forth the so-called "two-physician rule." *Absolute Cleaning/SVMBL v. Illinois Workers' Compensation Comm'n*, 409 Ill. App. 3d 463, 468 (2011). Under section 8(a) of the Act, an employer's liability to pay for medical services is limited to (1) first aid and emergency treatment plus (2) two additional doctors chosen by the employee and (3) any additional providers and services recommended by the two physicians selected by the employee. 820 ILCS 305/8(a) (West 2010); *Bob Red Remodeling, Inc. v. Illinois Workers' Compensation Comm'n*, 2014 IL App (1st) 130974WC, ¶ 47. The determination as to whether a claimant obtained medical treatment as a result of a valid referral is a question of fact for the commission. *Absolute Cleaning/SVMBL*, 409 Ill. App. 3d at 468. We will reverse the Commission's factual findings only if they are against the manifest weight of the evidence. *Bassgar, Inc. v. Illinois Workers' Compensation Comm'n*, 394 Ill. App. 3d 1079, 1085 (2009).

¶ 57 Respondent argues that claimant chose Dr. Manatt as her first physician and Dr. Silver as her second physician.[3] Respondent asserts that claimant then contacted the Illinois Physicians

[3] Respondent concedes that the treatment claimant received at the emergency room and from Dr. White on the day of the accident was from "the company clinic" and does not count as

Network, and that agency referred her to Dr. Giannoulias. Respondent argues that Dr. Giannoulias therefore constituted claimant's third choice of physician and falls outside the permissible chain of referrals allowed under section 8(a) of the Act, and, thus any bills associated with his treatment should be denied. We disagree.

¶ 58 The record establishes that after seeking treatment in the emergency room and with Dr. White, claimant saw Dr. Manatt on June 29, 2011. Dr. Manatt therefore constituted claimant's first choice of physician. Dr. Manatt referred claimant to Dr. Aribindi. The record, however, does not reflect that claimant consulted with Dr. Aribindi or that she returned to Dr. Manatt. Instead, claimant saw Dr. Silver on August 4, 2011. Thus, Dr. Silver constituted claimant's second physician choice. Claimant continued to treat with Dr. Silver through September 2011. In October 2011, however, claimant began seeing Dr. Giannoulias. Dr. Giannoulias's progress notes do not list a referring physician. However, the health insurance claim form filed by Dr. Giannoulias in relation to his initial consultation lists Dr. Manatt as the "referring provider or other source." At oral argument, respondent suggested that the reference on this form to "other source" was meant only to identify Dr. Mannat as claimant's primary care physician. However, a reasonable inference from this evidence is that claimant was referred to Dr. Giannoulias by Dr. Manatt. Since Dr. Manatt constituted claimant's first choice of physician, Dr. Giannoulias's care fell within the permissible chain of referrals. Under these circumstances, we cannot find that a conclusion opposite the Commission is clearly apparent. Hence, the Commission's finding that claimant did not exceed her choice of physicians is not against the manifest weight of the evidence.

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claimant's choice.

¶ 59 Respondent nevertheless contends that claimant's own testimony contradicts any finding that Dr. Manatt referred claimant to Dr. Giannoulias. In this regard, respondent points out that claimant testified at the arbitration hearing that she consulted Dr. Giannoulias after being referred to him by the Illinois Physician Network. However, the fact that claimant learned of Dr. Giannoulias from a third party does not rule out a referral by Dr. Manatt. As this court has previously noted, "the genesis of the referral has no bearing on the issue so long as the claimant's treating doctor ultimately made the referral." *Absolute Cleaning/SVMBL*, 409 Ill. App. 3d at 469; see also *Elmhurst-Chicago Stone Co. v. Industrial Comm'n*, 269 Ill. App. 3d 902, 906 (1995) ("No matter how Dr. Bartucci's name initially came up, claimant's treating doctor still referred him to Dr. Bartucci. Accordingly, *** Dr. Bartucci was in the chain of referral."). Here, even if claimant learned about Dr. Giannoulias from the Illinois Physician Network, the fact remains that Dr. Giannoulias's billing records indicate that he was ultimately referred by Dr. Manatt and thus fell within the permissible chain of referrals.

¶ 60 E. Medical Expenses

¶ 61 Respondent next argues that the Commission's award of medical expenses in the amount of $44,262.31 is contrary to law and against the manifest weight of the evidence. As was the case with respondent's challenge to the Commission's award of TTD benefits, its sole argument in this regard is that claimant failed to prove that she sustained a work-related injury to her right knee or that her condition of ill-being is causally related to the alleged accidents of June 9, 2011. As noted above, however, we have determined that the Commission committed no error in finding that claimant sustained a compensable industrial accident or that her current condition of ill-being is causally related to that accident. Hence, we decline respondent's invitation to

overturn the award of medical expenses on the basis that claimant failed to sustain her burden of proving accident or causation.

¶ 62 F. Penalties and Attorney Fees

¶ 63 Finally, respondent challenges the Commission's award of penalties under sections 19(k) and 19(l) of the Act (820 ILCS 305/19(k), (l) (West 2010)) and attorney fees pursuant to sections 16 of the Act (820 ILCS 305/16 (West 2010)).

¶ 64 The intent of sections 16, 19(k), and 19(l) is to implement the Act's purpose to expedite the compensation of industrial workers and to penalize employers who unreasonably, or in bad faith, delay or withhold compensation due an employee. *Avon Products, Inc. v. Industrial Comm'n.,* 82 Ill.2d 297, 301 (1980). However, the standard for granting penalties under section 19(l) differs from the standard for granting penalties under section 19(k) and attorney fees under section 16. We first examine the award of penalties under section 19(l).

¶ 65 Section 19(l) of the Act provides:

> "In case the employer or his or her insurance carrier shall without good and just cause fail, neglect, refuse, or unreasonably delay the payment of benefits under Section 8(a) or Section 8(b), the Arbitrator or the Commission shall allow to the employee additional compensation in the sum of $30 per day for each day that the benefits *** have been so withheld or refused, not to exceed $10,000. A delay in payment of 14 days or more shall create a rebuttable presumption of unreasonable delay." 820 ILCS 305/19(l) (West 2010).

The additional compensation or "penalty" authorized by section 19(l) are in the nature of a late fee. *McMahan v. Industrial Comm'n,* 183 Ill. 2d 499, 515 (1998). The assessment of a penalty under section 19(l) is mandatory if the payment is late and the employer or its insurer cannot

show an adequate justification for the delay. *Jacobo v. Illinois Workers' Compensation Comm'n*, 2011 IL App (3d) 100807WC, ¶ 20. The standard for determining whether an employer has "good and just cause" for a delay in payment is defined in terms of reasonableness. *Jacobo*, 2011 IL App (3d) 100807WC, ¶ 20. As we stated in *Jacobo*, "[t]he employer has the burden of justifying the delay, and the employer's justification for the delay is sufficient only if a reasonable person in the employer's position would have believed that the delay was justified." *Jacobo*, 2011 IL App (3d) 100807WC, ¶ 20. Thus, where the employer relies upon "responsible medical opinion or when there are conflicting medical opinions," penalties under section 19(l) are not ordinarily imposed. *Avon Products, Inc.*, 82 Ill. 2d at 302; *Mechanical Devices v. Industrial Comm'n*, 344 Ill. App. 3d 752, 763 (2003). The Commission's evaluation of the reasonableness of the employer's delay is a question of fact that will not be disturbed on review unless it is against the manifest weight of the evidence. *Jacobo*, 2011 IL App (3d) 100807WC, ¶ 20.

¶ 66 Respondent urges this court to reverse the Commission's award of penalties and attorney fees. According to respondent, "there were numerous reasonable disputes" regarding accident and causation that provided "a justifiable basis for contesting [claimant's] arguments and denying benefits until each issue was fully litigated." In support of its position, respondent cites (1) alleged inconsistencies between claimant's allegations and her medical history, accident report, and video surveillance and (2) Dr. Walsh's conclusion that claimant's condition of ill-being was not related to the workplace accident.

¶ 67 The Commission, however, determined that respondent's delay in payment was unreasonable under the circumstances. As noted above, we defer to the Commission's resolution on the issue of reasonableness unless it was against the manifest weight of the evidence. Here,

we conclude that neither the purported inconsistencies cited by respondent nor the surveillance video reasonably dispute the Commission's findings that: (1) claimant did not have any problems with her right knee prior to June 9, 2011; (2) respondent directed claimant to the emergency room following an alleged work accident where she was diagnosed with right-knee pain, placed in an immobilizer, discharged with crutches, and instructed to follow up with Dr. White, the plant physician; (3) Dr. White diagnosed a right-knee strain and prescribed work restrictions; and (4) respondent failed to accommodate the restrictions imposed by Dr. White beyond one day, after which it terminated respondent on the basis that claimant contravened company policy by failing to report the first of two events which allegedly contributed to her injury. We further point out that both the emergency room physician and Dr. White list an employment accident as the "nature" of claimant's knee injury, thereby linking claimant's right-knee condition to her employment.

¶ 68 In addition, as noted above, the Commission reviewed and included a lengthy assessment of the surveillance video in its decision, but found that it did not provide a valid basis for denying benefits in this case because the footage was not continuous, the speed of the video was altered, and the distant camera angles. More significant, it was not until October 6, 2011, almost four months after the workplace events, that Dr. Walsh performed an independent medical examination (see 820 ILCS 305/12 (West 2010)). Since Dr. Walsh's causation opinion was first rendered on October 6, 2011, it could not have formed the basis of a delay in the payment of TTD benefits or medical services rendered prior to that date. We therefore conclude that these facts are sufficient to support the Commission's determination that respondent's failure to pay TTD benefits to the claimant prior to October 6, 2011, and its failure to pay for medical services associated with the treatment provided in the emergency room and by Dr. White was objectively

unreasonable. Consequently, we are unable to find that the Commission's decision to impose penalties pursuant to section 19(l) of the Act is against the manifest weight of the evidence.

¶ 69 The standard for awarding attorney fees under section 16 and penalties under section 19(k) of the Act is higher than the standard under section 19(l). Sections 16 and 19(k) require more than an unreasonable delay in payment. *Jacobo*, 2011 IL App (3d) 100807WC, ¶ 24. Section 16 attorney fees and section 19(k) penalties are intended to address situations where there is not only delay, but the delay is deliberate or the result of bad faith or improper purpose. *Jacobo*, 2011 IL App (3d) 100807WC, ¶ 24. Additionally, while section 19(l) penalties are mandatory, the imposition of attorney fees under section 16 and penalties under section 19(k) is discretionary. *Jacobo*, 2011 IL App (3d) 100807WC, ¶ 24. Hence, our review of the Commission's award of attorney fees and penalties under sections 16 and 19(k) of the Act involves a two-part analysis. *Jacobo*, 2011 IL App (3d) 100807WC, ¶ 25. First, we determine whether the Commission's findings that the facts justify section 16 attorney fees and section 19(k) penalties are contrary to the manifest weight of the evidence. *Jacobo*, 2011 IL App (3d) 100807WC, ¶ 25. Second, we determine whether it would be an abuse of discretion to award such fees and penalties under the facts presented. *Jacobo*, 2011 IL App (3d) 100807WC, ¶ 25. An abuse of discretion occurs when the Commission's ruling is arbitrary, fanciful, or unreasonable, or where no reasonable person would take the view adopted by the Commission. *Oliver v. Illinois Workers' Compensation Comm'n*, 2015 IL App (1st) 143836WC, ¶ 50.

¶ 70 Section 16 of the Act provides for an award of attorney fees when an award of additional compensation under section 19(k) is appropriate. 820 ILCS 305/16 (West 2010); *Jacobo*, 2011 IL App (3d) 100807WC, ¶ 22. Section 19(k) of the Act provides:

"In case[s] where there has been any unreasonable or vexatious delay of payment

> or intentional underpayment of compensation *** then the Commission may award compensation additional to that otherwise payable under the Act equal to 50% of the amount payable at the time of such award." 820 ILCS 305/19(k) (West 2010).

As to the propriety of the Commission's award of section 16 attorney fees and section 19(k) penalties, respondent presents the same arguments that it relied upon in seeking reversal of the penalties awarded pursuant to section 19(l).

¶ 71 With respect to the first prong of the analysis, we have already determined that the Commission was warranted in concluding that claimant's delay in paying claimant's benefits was unreasonable. We have also determined that the Commission's findings that claimant sustained an accident arising out of and in the course of her employment with respondent and that her condition of ill-being is causally related to her industrial accident are not against the manifest weight of the evidence. In our analysis of the propriety of penalties pursuant to section 19(l), we noted that prior to Dr. Walsh's opinion, which was rendered on October 6, 2011, nothing in the record could reasonably support the conclusion that the condition of claimant's right knee after June 9, 2011, was not causally related to the work events of that same date. Prior to June 9, 2011, claimant had not had any problems with her right knee. On that date, claimant was at work when she first twisted her right knee after stepping in oil. Shortly later, claimant's right knee "totally collapsed" as she was descending a staircase while returning from her work break. Both the emergency-room physician and Dr. White linked the condition of claimant's knee to the events of June 9, 2011. Further, as noted earlier, Dr. Walsh did not render his causation opinion until October 6, 2011. As a consequence, his opinion could not have formed the basis of a reasonable refusal to pay TTD benefits or medical services rendered to claimant prior to the date of the examination. We conclude, therefore, that the Commission's

determination that respondent's refusal to pay for TTD benefits prior to October 6, 2011, and for medical services associated with the treatment provided in the emergency room and by Dr. White, was not in good faith is not against the manifest weight of the evidence. Therefore, under these facts, we find that the Commission did not abuse its discretion when it awarded claimant section 16 attorney fees and section 19(k) penalties.

¶ 72 V. CONCLUSION

¶ 73 For the reasons set forth above, we affirm the judgment of the circuit court of Cook County, which confirmed the Commission's opinion and decision on remand. This cause is remanded to the Commission for further proceedings pursuant to *Thomas*, 78 Ill. 2d 327 (1980).

¶ 74 Affirmed and remanded.