Workers' Compensation
Commission Division
Order Filed: March 31, 2016

No. 1-15-1790WC

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

LECH MARSZALEK,	)	Appeal from the
	)	Circuit Court of
Appellant,	)	Cook County
	)	
v.	)	No. 14 L 50786
	)	
ILLINOIS WORKERS' COMPENSATION	)	
COMMISSION, *et al.*,	)	Honorable
	)	Carl A. Walker,
(JKC Trucking Co., Inc., Appellee).	)	Judge, Presiding.

JUSTICE HOFFMAN delivered the judgment of the court.
Presiding Justice Holdridge and Justices Hudson, Harris, and Stewart concurred in the judgment.

ORDER

¶ 1 *Held:* The claimant's argument on appeal is forfeited for failing to comply with Illinois Supreme Court Rule 341(h) (eff. Feb. 6, 2013); forfeiture aside, his contention is without merit.

¶ 2 The claimant, Lech Marszalek, filed this *pro se* appeal from an order of the circuit court of Cook County which confirmed a decision of the Illinois Workers' Compensation Commission (Commission), denying him benefits pursuant to the Workers' Compensation Act (Act) (820

ILCS 305/1 *et seq.* (2002)) for injuries he allegedly sustained while driving a truck for JKC Trucking Co., Inc. (JKC). For the reasons that follow, we affirm.

¶ 3 The claimant filed an application for adjustment of claim seeking benefits for "back pain to the right leg," which allegedly occurred as a result of an event which occurred while he was working for JKC.

¶ 4 Following a hearing held pursuant to section 19(b) of the Act (820 ILCS 305/19(b) (West 2012)), the arbitrator issued a decision denying the claimant benefits pursuant to the Act. The arbitrator found that the claimant failed to prove that (1) he suffered an accident arising out of and in the course of his employment, and (2) the current condition of ill-being in his lower back resulted from his employment with JKC.

¶ 5 The claimant filed a petition for review of the arbitrator's decision before the Commission. On September 19, 2014, the Commission issued a unanimous decision affirming and adopting the arbitrator's decision.

¶ 6 Thereafter, the claimant sought judicial review of the Commission's decision in the circuit court of Cook County. On June 5, 2015, the circuit court entered an order confirming the Commission's decision, and this appeal followed.

¶ 7 As his sole assignment of error, the claimant asserts that the Commission's decision denying him benefits was "unjust," and urges that we "review [it] once more." He specifically contends that sometime "in the year 2003," he was driving long routes for JKC when his L4 and L5 vertebra "were mashed together" as a result of the vibrations produced by his truck. No response brief has been filed.

¶ 8 We point out that the claimant's one-page "brief" on appeal more closely resembles a letter to this court. It fails to conform with the requirements of Illinois Supreme Court Rule 342

(eff. Jan. 1, 2005), in that it contains neither a copy of the arbitrator's decision nor a copy of the Commission's decision as an attached appendix. His brief also disregards the mandates of Illinois Supreme Court Rule 341(h) (eff. Feb. 6, 2013) pertaining to the form and content of appellate briefs. It is devoid of, among other things, a statement of facts, issues presented for review, and a defined argument section with citations to authority.

¶ 9 As a reviewing court, we are entitled to have the issues clearly defined, pertinent authority cited, and a cohesive legal argument presented. *Walters v. Rodriguez*, 2011 IL App (1st) 103488, ¶ 5. "The appellate court is not a depository in which the appellant may dump the burden of argument and research." *Thrall Car Manufacturing Co. v. Lindquist*, 145 Ill. App. 3d 712, 719 (1986). Arguments that are not supported by citations to authority fail to meet the requirements of Rule 341(h)(7) and are procedurally defaulted. *Vallis Wyngroff Business Forms, Inc. v. Illinois Workers' Compensation Comm'n*, 402 Ill. App. 3d 91, 94 (2010). The fact that a party appears *pro se* does not relieve him from complying as nearly as possible with the Illinois Supreme Court Rules for practice before this court. *Twardowski v. Holiday Hospitality Franchising, Inc.*, 321 Ill. App. 3d 509, 511 (2001).

¶ 10 In this case, the claimant's brief evinces no effort to comply with the rules articulated above. Consequently, his contention is forfeited for purposes of this appeal. Forfeiture aside, and to the extent the claimant has made a legal argument, his appeal fails on the merits.

¶ 11 To obtain compensation under the Act, a claimant bears the burden of showing that he suffered an accident arising out of and in the course of his employment. *Baggett v. Industrial Comm'n*, 201 Ill. 2d 187, 194 (2002). The determination of whether an injury arose out of and in the course of one's employment is generally a question of fact. *Hosteny v. Illinois Workers' Compensation Comm'n*, 397 Ill. App. 3d 665, 674 (2009). In resolving issues of fact, it is the

Commission's role to assess the credibility of witnesses, draw reasonable inferences from the evidence, determine the relative weight to accord the evidence, and resolve conflicts in the testimony, including conflicting expert testimony. *Id*. We will not overturn the Commission's decision regarding whether an injury arose out of and in the course of employment unless it is contrary to the manifest weight of the evidence. *Id*. For a finding of fact to be against the manifest weight of the evidence, an opposite conclusion must be clearly apparent from the record on appeal. *Swartz v. Industrial Comm'n*, 359 Ill. App. 3d 1083, 1086 (2005).

¶ 12 Applying these standards, we cannot conclude that the Commission's finding that the claimant failed to prove he sustained an accident on July 10, 2003, was against the manifest weight of the evidence. There is no evidence that he reported an accident to JKC on or around that date and no record of him having sought medical treatment until July 19, 2003, over a week later. Moreover, the Commission specifically found that the claimant's testimony that he injured his back while driving a truck for JKC from California to Illinois was not credible. It noted that he testified inconsistently and admitted on cross-examination that he was not driving the truck but was instead sleeping in the sleeper section of his truck, waiting to make a delivery at a Walgreens' warehouse in California, when he first noticed pain in his lower back. The Commission's finding that the claimant's credibility was questionable is also supported by the fact that, prior to his back surgery, he signed a pre-operation intake form stating that his low back condition was not work-related and identifying January 1, 2003, as the date of injury.

¶ 13 The Commission also found the testimony of Ireneusz Panek, the claimant's supervisor, "to be more credible than that of [the claimant]." Panek testified that the claimant called him on July 16, 2003, reporting low back pain and requesting a few days off work; the claimant denied being in an accident and could not explain to Panek what caused his back pain. Rather, the

claimant told Panek that his back problems began years ago and the reason he sought employment with JKC was because it offered workers' compensation insurance.

¶ 14 Finally, the Commission supported its decision by relying upon the medical opinion of Dr. Michael Kornblatt. While Dr. Kornblatt noted that the claimant's MRIs of August 1, 2003, and November 19, 2003, revealed herniated discs at L4-5 and L5-S1, and spinal stenosis at L4-5, he explained that the claimant's condition was wholly preexisting and degenerative in nature. He opined that the claimant's symptoms were "just a component of degenerative disc disease" and his low back condition was not caused or aggravated by driving a truck from California to Illinois.

¶ 15 Based upon the record before us, we conclude there is sufficient evidence to support the Commission's decision that the claimant failed to prove the occurrence of an accident arising out of and in the course of his employment. Its decision in that regard is, therefore, not against the manifest weight of the evidence.

¶ 16 For the reasons stated above, we affirm the judgment of the circuit court which confirmed the Commission's decision denying the claimant benefits pursuant to the Act.

¶ 17 Affirmed.