2016 IL App (4th) 150126WC-U

FILED: June 21, 2016

NO. 4-15-0126WC

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

REBECCA WILLIAMS Appellant, v. THE ILLINOIS WORKERS' COMPENSATION COMMISSION *et al.* (County of Coles, Appellees).	)	Appeal from Circuit Court of Coles County No. 14MR1 Honorable Karen E. Wall, Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.
Justices Hoffman and Hudson concurred in the judgment.
Justice Stewart dissented, joined by Presiding Justice Holdridge.

ORDER

¶ 1 *Held:* The Commission's determination that claimant did not suffer an accident arising out of her employment was not against the manifest weight of the evidence.

¶ 2 In February 2012, claimant, Rebecca Williams, filed an application for adjustment of claim pursuant to the Illinois Workers' Compensation Act (Act) (820 ILCS 305/1 to 30 (West 2006)), seeking benefits from the employer, County of Coles. She alleged to have suffered injury to her left leg and hip resulting from a fall at work on July 21, 2011.

¶ 3 Following a hearing, the arbitrator found that claimant sustained an accident that arose out of and in the course of her employment and awarded her benefits under the Act.

¶ 4 On review, the Illinois Workers' Compensation Commission (Commission)

reversed the decision of the arbitrator, finding that claimant failed to prove an accident arising out of her employment. On judicial review, the circuit court of Coles County confirmed the Commission's decision.

¶ 5 On appeal, claimant argues the Commission's finding that she failed to prove an accident arising out of her employment was error. We affirm.

¶ 6 I. BACKGROUND

¶ 7 The following evidence relevant to the disposition of this appeal was elicited at the October 18, 2012, arbitration hearing.

¶ 8 Claimant testified that for the prior 22 years, she had been employed as the Coles County court administrator working for the circuit court judges at the Coles County courthouse. She explained that the courthouse has entrances located on all four sides of the building but that the east and west entrances are closed at all times. According to claimant, the north entrance is locked to entry and is used only as an exit by members of the public and court employees. Claimant stated the south entrance is the main entryway for members of the public as well as court employees. Two sets of steps, separated by a landing, lead to both the north and south courthouse doors.

¶ 9 Claimant testified that she had been on vacation in the days leading up to July 21, 2011. One or two days before returning to work, claimant went to the courthouse and retrieved court documents that needed to be mailed. She explained that her job duties including mailing court documents at the post office. According to claimant, on the morning of July 21, 2011, she left her house and went directly to the post office to drop off the mail she had previously retrieved from the courthouse. She then proceeded to the courthouse, arriving at approximately 8:30 a.m. Claimant parked her car in an employee parking lot on the north side of the

courthouse. Claimant testified her intent was to walk from the parking lot to the south entrance, but as she started walking, a judge who was walking up the north steps carrying a microwave oven and a security officer who was holding the north door open for the judge, "both turned around and said, '[h]ey, come on in here, you don't have to walk around, come on in here." Claimant stated that she initially hesitated because one of her reasons for parking in the north parking lot was to get exercise as she walked to the south entrance. However, claimant testified she then walked in a hurried fashion towards the north door "because they were standing there holding the door open for me" and she "didn't want to slow them down."

¶ 10 Claimant testified that as she was ascending the stairs in a hurried manner, she "tripped or *** went down," landing on her left side. She stated, "[m]y mind was vague about what happened but it had to have been this [step where] I lost my footing and then I went down here because my hip landed on the doorjamb." Claimant then stated, "I tripped on something, I think the step, and went down." At the time of her fall, claimant was carrying her purse and wearing sandals which she had worn many times before. The steps were clear and dry. The evidence established the top flight of steps where claimant fell consisted of seven steps varying in height from 5.5 inches to 7.5 inches. The difference in height from one step to the next varied from 0.125 inches to 1 inch.

¶ 11 Immediately after her fall, claimant felt pain in her left hip area and was taken by ambulance to Sarah Bush Lincoln Health Center. X-rays of her left hip revealed a non-displaced subcapital fracture of the left hip. On July 22, 2011, Dr. Donald M. Sandercock II, an orthopedic surgeon, performed a closed reduction and percutaneous pinning of her left hip fracture.

¶ 12 Claimant returned to work in September 2011, however, she testified that she experienced "constant pain" in her left hip and began noticing swelling in her left knee, ankle,

and thigh. In May 2012, claimant sought treatment with her family practitioner at which time she was referred back to Dr. Sandercock. X-rays taken in June 2012 revealed posttraumatic avascular necrosis with collapse of the left hip. On June 27, 2012, claimant underwent a left total hip arthroplasty with removal of deep hardware. On September 18, 2012, Dr. Sandercock noted claimant was doing well with no complaints. He instructed her to continue with her exercise program and follow up with him in three months.

¶ 13 Claimant testified that as of the date of arbitration, she continued to experience an "ache" in her left hip, knee, and ankle. Her left knee and ankle swell when she does "too much" and it is difficult for her to climb the courthouse steps. She stated she could no longer ski, run, mow her yard, or polish her toenails on her left foot, and she needs support to get out of chairs.

¶ 14 On November 30, 2012, the arbitrator issued his decision in the matter, awarding benefits under the Act. The arbitrator found that (1) claimant sustained an accident that arose out of and in the course of her employment; (2) claimant's current condition of ill-being in her left knee and hip were causally related to the work accident; (3) the medical treatment received by claimant was reasonable and necessary and the employer was liable for medical bills totaling $12,324.98; (4) claimant was entitled to temporary total disability (TTD) benefits for the period of July 22, 2011, through September 18, 2011, and June 11, 2012, through August 12, 2012; and (6) claimant was entitled to permanent partial disability in the sum of $403.04 per week for 107.5 weeks because the injuries she sustained as a result of the work accident caused the permanent and partial loss of use of the left leg to the extent of 50% thereof.

¶ 15 On December 5, 2013, the Commission reversed the decision of the arbitrator, concluding that claimant failed to prove her injury arose out of her employment. Specifically, the Commission found that claimant failed to present any evidence establishing the cause of her

fall, that the stairs were defective, or that she was exposed to a risk greater than the general public. On January 20, 2015, the circuit court of Coles County confirmed the Commission's decision.

¶ 16 This appeal followed.

¶ 17 II. ANALYSIS

¶ 18 On appeal, claimant argues the Commission's finding that the cause of her fall was unexplained and that she failed to prove an accident arising out of her employment was error. Specifically, claimant argues that the cause of her fall was due to (1) her act of ascending the steps in a "hurried fashion so as not to delay the judge," or alternatively, (2) a defect in the stairs leading to the courthouse's north doors.

¶ 19 The purpose of the Act is to protect employees against risks and hazards which are peculiar to the nature of the work they are employed to do. *Orsini v. Industrial Comm'n*, 117 Ill. 2d 38, 44, 509 N.E.2d 1005, 1008 (1987). "To obtain compensation under the Act, a claimant bears the burden of showing, by a preponderance of the evidence, that [s]he has suffered a disabling injury which arose out of and in the course of h[er] employment." *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 203, 797 N.E.2d 665, 671 (2003). An injury occurs "in the course of employment" when it "occur[s] within the time and space boundaries of the employment." *Id*. In this case, the Commission determined claimant's injury did not arise out of her employment.

¶ 20 An injury "arises out of" employment when "the injury had its origin in some risk connected with, or incidental to, the employment so as to create a causal connection between the employment and the accidental injury." *Id*. As a general rule,

> "an injury arises out of one's employment if, at the time of the occurrence, the employee was performing acts he was instructed to perform by his employer, acts which he had a common law or statutory duty to perform, or acts which the employee might reasonably be expected to perform incident to his assigned duties. [Citations.] A risk is incidental to the employment where it belongs to or is connected with what an employee has to do in fulfilling his duties." *Caterpillar Tractor Co. V. Industrial Comm'n*, 129 Ill. 2d 52, 58, 541 N.E.2d 665, 667 (1989).

¶ 21 Whether an injury arose out of and in the course of one's employment is generally a question of fact and the Commission's determination on this issue will not be disturbed unless it is against the manifest weight of the evidence. *Brais v. Illinois Workers' Compensation Comm'n*, 2014 IL App (3d) 120820WC, ¶ 19, 10 N.E.3d 403. "In resolving questions of fact, it is within the province of the Commission to assess the credibility of witnesses, resolve conflicts in the evidence, assign weight to be accorded the evidence, and draw reasonable inferences from the evidence." *Id*. Claimant argues a *de novo* standard applies since the material facts related to claimant's fall in this case are not in dispute. Whether or not this is correct, the material facts here are certainly subject to more than a single inference. Under these circumstances, the Commission's determination will not be disturbed on review unless it is against the manifest weight of the evidence. *Mansfield v. Workers' Compensation Comm'n*, 2013 IL App (2d) 120909WC, ¶ 28, 999 N.E.2d 832; see also *Baumgardner v. Illinois Workers' Compensation Comm'n*, 409 Ill. App. 3d 274, 279, 947 N.E.2d 856, 860 (2011) ("Even in cases where the facts are undisputed, this court must apply the manifest-weight standard if more than one reasonable

inference might be drawn from the facts."). "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." *City of Springfield v. Illinois Workers' Compensation Comm'n*, 388 Ill. App. 3d 297, 315, 901 N.E.2d 1066, 1081 (2009).

¶ 22 To determine whether a claimant's injury arose out of her employment, we must first determine the type of risk to which she was exposed. *Baldwin v. Illinois Workers' Compensation Comm'n*, 409 Ill. App. 3d 472, 478, 949 N.E.2d 1151, 1156 (2011). There are three categories of risk to which an employee may be exposed: (1) risks that are distinctly associated with one's employment; (2) risks that are personal to the employee, such as idiopathic falls; and (3) neutral risks that have no particular employment or personal characteristics, such as those that the general public is commonly exposed. *Springfield Urban League v. Illinois Workers' Compensation Comm'n*, 2013 IL App (4th) 120219WC, ¶ 27, 990 N.E.2d 284. "Injuries resulting from a neutral risk generally do not arise out of the employment and are compensable under the Act only where the employee was exposed to the risk to a greater degree than the general public." *Id*; see also *Orsini*, 117 Ill. 2d at 45, 509 N.E.2d at1008 ("For an injury to have arisen out of the employment, the risk of injury must be a risk peculiar to the work or a risk to which the employee is exposed to a greater degree than the general public by reason of his employment."); *Caterpillar*, 129 Ill. 2d at 59, 541 N.E.2d at 667. ("[I]f the injury results from a hazard to which the employee would have been equally exposed apart from the employment, or a risk personal to the employee, it is not compensable.").

¶ 23 In this case, the evidence does not point to a personal risk or a risk "distinctly associated" with claimant's employment. Instead, the evidence establishes the risk posed to claimant was the act of walking up steps, which is a neutral risk. *Baldwin v. Illinois Workers'*

Compensation Comm'n, 409 Ill. App. 3d 472, 478, 949 N.E.2d 1151, 1157 (2011). Thus, claimant bore the burden of showing she was exposed to an increased risk of either a qualitative nature , *i.e.*, some aspect of her employment contributed to the risk, or a quantitative nature, *i.e.*, she was exposed to a common risk more frequently than the general public. *Springfield Urban League*, 2013 IL App (4th) 120219WC, ¶ 27, 990 N.E.2d 284.

¶ 24 First, even assuming, *arguendo*, that claimant's act of hurrying up the stairs contributed to her fall, she presented no evidence to suggest that her decision to hurry up the stairs was attributable to any aspect of her employment. Rather, the record shows that claimant merely accepted an invitation to enter the courthouse's north doors and, on her own accord, decided to ascend the stairs in a hurried manner. Thus, claimant's act of hurrying did not transform what was otherwise a non-compensable neutral risk of tripping on steps into a compensable accident.

¶ 25 Second, we disagree with claimant that her injury is compensable because it was caused by a defect in the courthouse's steps. Claimant relies on *Litchfield Healthcare Center v. Industrial Comm'n*, 349 Ill. App. 3d 486, 812 N.E.2d 401 (2004), in support of her contention. In *Litchfield*, the claimant was injured when she tripped on a sidewalk, in an area where the slabs of concrete were uneven. *Id*. at 490, 812 N.E.2d at 45. This court concluded the Commission's finding of no defect in the sidewalk was against the manifest weight of the evidence based on the claimant's uncontradicted testimony "that she tripped on an area of the sidewalk where the slabs of concrete were 'not level with each other' "and photographs which confirmed her description of the defect. *Id*. at 491, 812 N.E.2d at 405-06.

¶ 26 In this case, however, claimant failed to present evidence explaining the cause of her fall. While she presented evidence the steps were of varying heights, she failed to present

any evidence she fell due to this condition. In fact, as previously noted, claimant was unsure what caused her to fall, stating alternatively "I lost my footing" and "I tripped on something." Although claimant testified she thought she tripped on a step, she was unable to specify on which step she might have tripped. Without more specificity, it would require this court to speculate as to the cause of claimant's fall, and more specifically, whether the varying heights of the steps contributed to her fall. We note, for example, the difference in height between the fourth and fifth steps was only 0.125 inches, a difference so negligible it clearly could not be characterized as a defect.

¶ 27 Based on the above, we find the Commission's determination that claimant failed to prove an injury arising out of her employment was not against the manifest weight of the evidence.

¶ 28 III. CONCLUSION

¶ 29 For the reasons stated, we affirm the circuit court's judgment confirming the Commission's decision.

¶ 30 Affirmed.

¶ 31 JUSTICE STEWART, dissenting.

¶ 32 I respectfully dissent. In my view, the claimant met her burden of proving that her injury arose out of and in the course of her employment.

¶ 33 In order to recover benefits under the Act, a claimant must prove by a preponderance of the evidence that her injury arose out of and in the course of her employment. 820 ILCS 305/2 (West 2014). The "in the course of" component refers to the time, place, and circumstances surrounding the injury. *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 203, 797 N.E.2d 665, 671 (2003). "[F]or an injury to be compensable, it generally must occur within the time and space boundaries of the employment." *Id*. In the present case, the claimant was injured on the employer's premises and while she was at work as she was returning to the courthouse after having begun her workday by delivering work-related mail to the post office. Her injury, therefore, occurred in the course of her employment. The issue in this case is whether she met her burden of proving that her injury arose out of her employment.

¶ 34 "The 'arising out of' component is primarily concerned with causal connection" and is satisfied when the claimant has "shown that the injury had its origin in some risk connected with, or incidental to, the employment so as to create a causal connection between the employment and the accidental injury." *Id.* at 203, 797 N.E.2d at 672. Stated another way, an injury arises out of one's employment if, at the time of the accident, the employee was performing acts her employer instructed her to perform, acts she had a common law or statutory duty to perform, or acts she might reasonably be expected to perform incident to her assigned duties. *Id.* at 204, 797 N.E.2d at 672. A risk is incidental to the employment where it belongs to or is connected with what an employee must do in performing her duties. *Id.*

¶ 35 Whether an injury arose out of a claimant's employment is a question of fact for

the Commission, and its determination will not be disturbed on review unless it is against the manifest weight of the evidence. *Adcock v. Illinois Workers' Compensation Comm'n,* 2015 IL App (2d) 130884WC, ¶ 29, 38 N.E.3d 587. For a factual finding to be against the manifest weight of the evidence, an opposite conclusion must be clearly apparent. *Id.* Although we are reluctant to reverse a factual finding of the Commission, we will not hesitate to do so when the clearly evident, plain, and indisputable weight of the evidence compels an opposite conclusion. *Id.* In my view, this is such a case.

¶ 36 To determine whether the claimant's injury arose out of her employment, we must first determine the type of risk to which she was exposed. *Id.*, ¶ 31, 38 N.E.3d 587. There are three types of risks to which an employee may be exposed: (1) risks distinctly associated with the employment; (2) risks personal to the employee; and (3) neutral risks that have no particular employment or personal characteristics. *Id.*

¶ 37 In the present case, the claimant tripped and fell while climbing stairs, which is a neutral risk. See *Id.*, ¶ 54 n.3, 38 N.E.3d 587 (Stewart, J., specially concurring) ("In the context of falls, we have consistently held that walking on level ground or up and down stairs is a neutral risk."). As Justice Rakowski explained in *Illinois Consolidated Telephone Co. v. Industrial Comm'n,* 314 Ill. App. 3d 347, 353, 732 N.E.2d 49, 54 (2000) (Rakowski, J., specially concurring):

> ¶ 38 "In the context of falls, neutral risks include falls on level ground or while traversing stairs. Whether a neutral-risk injury arises out of employment depends on whether the employee was exposed to a risk greater than that to which the general public is exposed. [Citation.] Thus, because the general public and employees alike are equally exposed to the risks of walking and traversing stairs,

injuries resulting from these acts generally do not arise out of employment. However, *** there is an exception where employment conditions create a risk to which the general public is not exposed. In such cases, the injury arises out of employment. The increased risk may be qualitative, such as the dangerous nature of the stairs in the instant case, or quantitative, such as where the employee is exposed to a common risk more frequently than the general public."

¶ 39 In the present case, the arbitrator found that the claimant proved that her injury arose out of her employment and awarded her benefits under the Act, but the Commission reversed the arbitrator's decision, reasoning as follows:

¶ 40 "The [claimant] did not present any direct evidence explaining the cause of her fall. She testified that she did not know what caused her fall and that the stairs were not wet and did not have any gravel on them. [She] argues that she was [climbing the stairs] in a hurried fashion at [the] time of her fall as she did not want to delay the Judge. [She] failed to offer evidence that the fall stemmed from a risk of her employment. At the time of her fall, she was carrying her purse only. Further, [she] failed to prove the stairs were defective. [She] offered into evidence pictures of the stairs showing the varied height and argues they were therefore defective. Other than the pictures, [she] offered no evidence to establish that the varying height was an actual defect. Additionally, [she] failed to prove that she was exposed to a risk greater than the general public. The north entrance was used by the general public and employees to exit the building. The fact that [she] was walking up the stairs at the time of the accident does not establish that she was exposed to a risk greater than the general public. The general public

would use the stairs on a daily basis and was exposed to the same risk as the [claimant].

¶ 41 Because the [claimant] did not present any evidence establishing the cause of her fall ***, or that the stairs were defective, or that she was exposed to a risk greater than the general public, she failed to prove that her injury arose out of and in the course of her employment."

¶ 42 My learned colleagues conclude that the Commission's finding that the claimant failed to prove an injury arising out of her employment was not against the manifest weight of the evidence, stating:

¶ 43 "[C]laimant failed to present evidence explaining the cause of her fall. While she presented evidence the steps were of varying heights, she failed to present any evidence she fell due to this condition. In fact, *** claimant was unsure what caused her to fall, stating alternatively 'I lost my footing' and 'I tripped on something.' Although claimant testified she thought she tripped on a step, she was unable to specify on which step she might have tripped. Without more specificity, it would require this court to speculate as to the cause of claimant's fall, and more specifically, whether the varying heights of the steps contributed to her fall."

¶ 44 I disagree. In her undisputed testimony, the claimant stated that at about 8:30 a.m. on the day of the fall she was returning to the courthouse after delivering work-related mail to the post office. She intended to walk to the south doors of the courthouse, which is the main entryway for courthouse employees and members of the general public. The north doors are generally locked, and employees cannot enter through the north doors unless they have a key,

which she did not have. As she was walking toward the south doors, she saw a judge walking up the steps to the north doors carrying a microwave. The judge and a security officer beckoned her to enter through the north doors, which they were holding open for her. She hurriedly climbed the steps to the north doors because she did not want to hold up the judge. In doing so, she tripped and fell. She testified that she tripped on one of the steps, but she was not sure exactly which one. She stated that she tripped on one of the steps, lost her footing, and fell. On cross-examination, she reiterated that she tripped and fell. When opposing counsel tried to get her to say she did not really know what caused her to fall, she stated, "I just know I tripped." When asked if she actually remembered tripping, she stated, "I know that my foot hit something or I tripped on something and went down." It is undisputed that the steps were clear and dry, and, thus, there was nothing other than the steps themselves for her to have tripped on. In my view, the Commission's finding that she "testified that she did not know what caused her fall" was, therefore, not supported by the evidence. She unequivocally testified that her fall was caused by tripping on one of the steps, and it was not necessary for her to prove exactly which step she tripped on. Further, the claimant clearly proved that the steps were defective. Common sense tells us that individual steps of varying heights in the same flight of stairs creates a hazard.

¶ 45 In *Litchfield Healthcare Center v. Industrial Comm'n*, 349 Ill. App. 3d 486, 487, 812 N.E.2d 401, 403 (2004), after punching in at a time clock inside the employer's building, the claimant, a certified nursing assistant, realized that she had forgotten her "gait belt" in her car. A gait belt is a device used to hold a resident as he or she is being lifted. *Id.* at 487-88, 812 N.E.2d at 403. She exited the building and returned to her car. *Id.* at 488, 812 N.E.2d at 403. After retrieving the gait belt, she began walking back to the building. *Id.* She testified that she tripped on an area of the sidewalk where the concrete slabs were "not level with each other." *Id.* at 491,

812 N.E.2d at 405. She identified an exhibit, which showed one concrete slab higher than the adjoining slab, and testified that the height difference was approximately 1 ¼ inches. *Id.* The Commission found that there "was no defect or hazard in the sidewalk." *Id.* In light of the claimant's unrebutted testimony on the issue and the concession of the employer's attorney during oral argument that the photographic exhibits showed varying heights in the adjoining concrete slabs, this court found that the Commission's finding of no defect or hazard in the sidewalk was against the manifest weight of the evidence. *Id.* at 491, 812 N.E.2d at 405-06. Similarly, here, in light of the claimant's unrebutted testimony and the photographic exhibits, which show that the steps varied in height from 5.5 inches to 7.5 inches, with a difference in height from one step to the next varying from 0.125 inches to 1 inch, I would find that the Commission's determination that the claimant failed to prove a defect or hazard in the steps was against the manifest weight of the evidence.

¶ 46 In *William G. Ceas & Co. v. Industrial Comm'n*, 261 Ill. App. 3d 630, 631, 633 N.E.2d 994, 995 (1994), the decedent fell down a flight of stairs at work and died as a result. She was a secretary for the employer, whose office was on the second floor of an office building. *Id.* at 632, 633 N.E.2d at 995. Her duties included putting Federal Express envelopes into the Federal Express box at the end of the day. *Id.* On the day of the fall, she was hurrying to finish something before quitting time. *Id.* After leaving the office, she fell down the stairs. *Id.* After the fall, she appeared to be nervous and in a hurry and said she had to get to the Federal Express box. *Id.* There was testimony that packages had to be in the Federal Express box by 5 or 5:30 p.m. for next day delivery. *Id.* at 632, 633 N.E.2d at 996. A co-worker testified that at about 5 p.m. that day, he opened the office door and saw the decedent lying at the bottom of the steps, with Federal Express envelopes in her purse. *Id.* at 633, 633 N.E.2d at 996. Her surviving

spouse testified that, on the day of the fall, she arrived home at the usual time, about 5:50 p.m. *Id.* She said that she had fallen at work and that she was very upset about the fall and about her boss's habit of giving her things to do at quitting time. *Id.* The arbitrator awarded benefits under the Act; the Commission affirmed the arbitrator's decision; the circuit court confirmed the Commission's decision; and a majority of this court affirmed the circuit court's decision. *Id.* at 631, 633 N.E.2d at 995.

¶ 47 On appeal, the employer argued, *inter alia*, that the Commission's finding that the accident arose out of the decedent's employment was against the manifest weight of the evidence. *Id.* at 636, 633 N.E.2d at 998. A majority of this court disagreed, stating:

> ¶ 48 "From these facts, the Commission could have inferred the following. At the end of a workday, decedent had been told by her boss to prepare and mail a number of Federal Express envelopes. It was typical of the boss to make this type of last minute demand of decedent. Decedent rushed to prepare the employer's envelopes. She then hurriedly left the office. Her immediate destination was the Federal Express box located on the premises where she would mail the envelopes. In the process of quickly going down the stairs, decedent lost her footing, fell down the stairs and incurred the fatal injury. But for the employer's habit of requiring last minute preparation and mailing of Federal Express envelopes and the resulting stress that it placed on decedent, there would have been no fatal fall.
>
> ¶ 49 Given these permissible inferences, claimant proved that the risk of this type of injury to decedent was increased as a consequence of her work." *Id.* at 637, 633 N.E.2d at 998-99.

¶ 50 Similarly, here, I would find that the claimant proved that the risk of this type of injury to her was increased as a consequence of her employment. The uncontroverted evidence shows that, at the time of her injury, as part of her regular job duties as court administrator, she was climbing the courthouse steps after dropping off work-related mail at the post office. She was hurrying so as to not hold up one of the judges for whom she worked, who had beckoned her to enter through the north doors and was holding the door open for her while also holding a microwave. The steps to the north doors varied in height from one step to the next. The risk of tripping and falling under these circumstances is beyond that to which the general public is exposed. Both the varying height of the steps and the fact that the claimant was hurrying so as to not hold up the judge increased the risk of injury qualitatively. I would, therefore, find that the Commission's determination that the claimant failed to prove she was exposed to a risk greater than the general public was not supported by the evidence.

¶ 51 Finally, it should be noted that the Commission's neutral-risk analysis was in error in that it compared the claimant's risk to that of the general public using the same stairs. In determining whether a claimant is subjected to a greater risk than the general public, the proper comparison is to a broad cross-section of the public, not to members of the public in the same locality. *Illinois Institute of Technology Research Institute v. Industrial Comm'n*, 314 Ill. App. 3d 149, 161-62, 731 N.E.2d 795, 805-06 (2000). If the claimant's risk is compared to that of the general public in the same locality facing the same conditions, the claimant's risk would never be greater. As Professor Larson aptly observed,"[o]ne could, with equal logic, say that a person employed as a lion-tamer was exposed to no greater risk of attack by lions than anyone else who happened to be in the cage." 1 A. Larson & L. Larson, Larson's Workers' Compensation Law § 5.04(2), at 5-20 (2009). Here, the proper comparison is to members of the general public

traversing stairs—not the same stairs.

¶ 52 Accordingly, in my view, the Commission's finding that the claimant failed to prove her injury arose out of and in the course of her employment was against the manifest weight of the evidence. I would, therefore, reverse the circuit court's decision, reverse the Commission's decision, and reinstate the arbitrator's decision.

¶ 53 Presiding Justice Holdridge joins this dissent.