2017 IL App (1st) 162246WC-U
No. 1-16-2246WC
Order filed: September 29, 2017

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IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

CITY OF CHICAGO HEIGHTS,	)	Appeal from the Circuit Court
	)	of Cook County.
Appellant,	)	
	)	
v.	)	No. 16-L-50155
	)	
THE ILLINOIS WORKERS'	)	
COMPENSATION COMMISSION, *et al.*,	)	Honorable
	)	Kay M. Hanlon,
(Frank Kush, Appellee).	)	Judge, Presiding.

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

ORDER

¶ 1 *Held*: (1) The Commission's award of TTD benefits after the date of claimant's retirement was not against the manifest weight of the evidence; (2) the Commission could reasonably conclude that claimant was forced to retire where respondent would not accommodate permanent restrictions imposed by claimant's treating physician; and (3) the Commission's award of medical benefits incurred after claimant's date of retirement, including a total left knee arthroplasty, was not against the manifest weight of the evidence.

¶ 2 Claimant, Frank Kush, filed an application for adjustment of claim pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2012)) seeking benefits for an injury he allegedly sustained to his left leg on April 17, 2012, while working as a firefighter for respondent, the City of Chicago Heights. Following a hearing pursuant to section 19(b) of the Act (820 ILCS 305/19(b) (West 2012)), the arbitrator concluded that claimant's current condition of ill-being was causally related to his employment. The arbitrator awarded claimant medical expenses and temporary total disability (TTD) benefits. The Illinois Workers' Compensation Commission (Commission) corrected certain portions of the arbitrator's decision, but otherwise affirmed and adopted the arbitrator's decision and remanded the matter for further proceedings pursuant to *Thomas v. Industrial Comm'n*, 78 Ill. 2d 327 (1980). On judicial review, the circuit court of Cook County confirmed the Commission's decision. Thereafter, respondent filed a notice of appeal challenging the Commission's findings with respect to the period of TTD and medical benefits. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On May 2, 2012, claimant filed an application for adjustment of claim alleging that he sustained injuries to his bilateral lower extremities on April 17, 2012, while working for respondent. The claim proceeded to an arbitration hearing on April 9, 2015, pursuant to section 19(b) of the Act (820 ILCS 305/19(b) (West 2014)). The issues in dispute included causal relationship, medical expenses, and period of TTD. The following evidence was presented at the arbitration hearing.

¶ 5 Claimant testified that he was employed by respondent as a firefighter for 29 years and 10 months prior to his retirement in November 2012. Claimant categorized his position as a physical, heavy-duty position involving crawling, climbing ladders, and going up and down

stairs. He had to wear equipment including leather boots, insulated pants, an insulated jacket, a leather helmet, and an oxygen tank. He also carried hand tools such as an axe. Claimant estimated that the equipment weighed between 90 and 100 pounds.

¶ 6 When claimant was 14 years old, he sustained an injury to his left knee while playing high school football. At that time, claimant underwent meniscal surgery on his left knee. After surgery, claimant did not have any further treatment or issues with his left knee until the accident at issue. Claimant added that for the entire 29-plus years that he worked for respondent, he had never had any injuries or pain in his left knee, he had never missed any time from his job because of his left knee, and he had never taken any medication or seen any doctors because of his left knee. Moreover, prior to the accident at issue, claimant led an active lifestyle which included going to the gym five days a week and jogging six to seven miles a day. Claimant also noted that he enlisted in the Army after passing a physical in 1969.

¶ 7 With respect to the injury at issue, claimant testified that at 8 p.m. on April 17, 2012, he responded to an emergency call regarding a house fire. Claimant went to the site, but the call turned out to be a false alarm. As claimant was returning to his truck, he stepped into an 18-inch deep hole with his left foot. Claimant was wearing all of his gear and carrying an axe at the time. Claimant testified that the hole was not visible as it was covered with grass. Claimant testified that when his left foot went down into the hole, he twisted his left knee and heard a “pop.” Claimant experienced immediate significant pain in his left knee. Claimant was helped up and back to the truck by Officer Warner Biedenharn of the Chicago Heights police department and his fellow firefighters. Upon arriving at the fire station, claimant reported the accident and finished his shift. He also completed a police report that evening with Officer Biedenharn. At the time of the accident, claimant was 61 years old.

¶ 8 With the pain getting worse and the knee swelling up, respondent sent claimant to the St. James Occupational Clinic the next morning (April 18, 2012). At the clinic, claimant was seen by Dr. Elseworth Philip. Dr. Philip documented that claimant twisted his left knee and bruised his right knee after falling into a hole while on an emergency call. Upon examination of the left knee, Dr. Philip noted mild swelling, full range of motion, and negative drawer's sign. X rays did not reveal a fracture or dislocation. Dr. Philip diagnosed a right-knee abrasion and a left-knee sprain. Dr. Philip authorized claimant to return to restricted duty, limited to a sedentary position with minimal walking and while wearing a knee support.

¶ 9 Claimant returned to the clinic two days later, at which time an MRI of the left knee was ordered. The MRI revealed a macerated, degenerative appearance of the medial meniscus without a discrete tear. Claimant was referred to orthopedic surgeon Dr. David Mehl. Claimant saw Dr. Mehl on April 30, 2012. Dr. Mehl reviewed the MRI films and diagnosed a work-related left knee medial meniscus tear and preexisting left knee moderate degenerative disease. Dr. Mehl took claimant off work and recommended arthroscopic surgery consisting of a partial medial meniscectomy and chondroplasty.

¶ 10 Claimant thereafter sought a second opinion from his own doctor. To that end, claimant consulted Dr. Mark Nikkel on May 1, 2012. Claimant reported a consistent history of his injury to Dr. Nikkel, and following an examination and an ultrasound, Dr. Nikkel diagnosed degenerative joint disease of the left knee with a medial meniscus tear. Dr. Nikkel recommended arthroscopic surgery. At that time, Dr. Nikkel noted that the surgery was intended to treat claimant's meniscal pathology and would not cure the degenerative joint disease in his knee. Dr. Nikkel added that additional treatment options may be necessary for the degenerative joint disease. Surgery was approved by respondent, and, on June 15, 2012, Dr. Nikkel performed an

arthroscopy, partial medial meniscectomy, partial lateral meniscectomy, and a chondroplasty. In his surgical notes, Dr. Nikkel wrote that claimant is a candidate for viscosupplementation and eventual joint replacement.

¶ 11 Following surgery, claimant began physical therapy and continued to treat with Dr. Nikkel. As of August 2012, claimant reported increased swelling of the left knee and constant soreness. At that time, Dr. Nikkel recommended Supartz injections. Respondent approved the treatment, and Dr. Nikkel administered a series of five injections between September 27, 2012, and October 25, 2012.

¶ 12 Claimant reported minimal relief from the injections when he saw Dr. Nikkel on November 20, 2012. At that time, Dr. Nikkel reiterated his diagnosis of degenerative joint disease of the left knee and concluded that claimant would be unable to perform the critical demands of his position as a firefighter. Dr. Nikkel released claimant to return to work with permanent restrictions of no stooping, bending, crawling, climbing, or lifting greater than 20 pounds. At that time, Dr. Nikkel also scheduled claimant for a three-month follow-up consultation regarding total knee replacement.

¶ 13 Claimant informed his commander of the permanent restrictions imposed by Dr. Nikkel. Commander James Agnell responded that respondent would not accommodate the restrictions. When respondent refused to accommodate the restrictions, claimant retired from employment. Claimant indicated that he did not plan to retire on November 20, 2012. He stated that he loved his job and was planning to work for the fire department for 35 years. All medical and full wages were paid by respondent through November 20, 2012. Thereafter, however, respondent ceased paying benefits. Claimant testified that he did not seek any other employment following his retirement.

¶ 14 Following November 20, 2012, claimant engaged in rehabilitation at home during the end of 2012 and into 2013. Nevertheless, his condition continued to gradually worsen. He was still in pain, his left leg was stiff, and he was uncomfortable. By February 2014, claimant could not take the pain, so he scheduled an appointment with Dr. Nikkel.

¶ 15 Claimant saw Dr. Nikkel on February 5, 2014. At that time, claimant reported difficulty with activities of daily living and sleeping. He also stated that he could not walk a block without pain and experienced clicking, popping, buckling, instability, and locking of the left knee. Dr. Nikkel again diagnosed degenerative joint disease. Dr. Nikkel stated in his treatment note:

> "This patient's injury occurred in April 2012 [and] did not cause his arthritic disease but it definitely accelerated and aggravated an ongoing condition. As a result he is having significant pain that has debilitated him in his retirement and prevented him from returning to work as a *** fire fighter."

Dr. Nikkel administered a cortisone shot, but stated that the injections were "just a temporary solution to inevitable knee replacement."

¶ 16 Claimant next saw Dr. Nikkel on April 29, 2014. Claimant reported continued pain and the same symptoms as his previous visit. Dr. Nikkel scheduled a total left knee replacement with arthroplasty. Respondent refused to approve the surgery, so it was paid for by claimant's group health insurance. Claimant underwent the procedure on December 8, 2014. Claimant described his post-surgical recovery as "very slow and painful." On March 16, 2015, claimant underwent a third left knee surgery in the form of a manipulation under anesthesia. Claimant was last seen by Dr. Nikkel on April 8, 2015, the day before the arbitration hearing. At that time, a cortisone injection was administered.

¶ 17 Respondent scheduled an IME for claimant with Dr. Brian Forsythe of Midwest Orthopaedics at Rush on October 9, 2014. Dr. Forsythe reviewed claimant's medical records, including the diagnostic films. Dr. Forsythe also took a history of claimant's injury, physically examined claimant, and took X rays. Dr. Forsythe opined that claimant's current complaints are related to his preexisting degenerative osteoarthritis. He further opined that claimant's osteoarthritis is not related to the work injury of April 17, 2012, but rather "is likely the long-term sequela of the open subtotal meniscectomy that [claimant] underwent as a teenager." Dr. Forsythe stated that any further treatment would be related to the natural progression of preexisting underlying osteoarthritis and not the April 17, 2012, incident. Dr. Forsythe determined that claimant is "appropriately indicated for a knee replacement" as a result of the preexisting degenerative osteoarthritis. He also opined that claimant is unable to work full duty as a firefighter, and he did not anticipate claimant returning to that line of work. Finally, Dr. Forsythe opined that claimant had reached maximum medical improvement (MMI) in regard to the alleged injury of April 17, 2012. Claimant testified at the arbitration hearing that Dr. Forsythe spent five to seven minutes with him.

¶ 18 Claimant also underwent an independent medical examination with Dr. Matthew Jimenez at the Illinois Bone & Joint Institute on November 11, 2014. Dr. Jimenez took a history from claimant, reviewed his medical records, and performed a physical examination. Dr. Jimenez diagnosed posttraumatic osteoarthritis and an exacerbation of preexisting degeneration. Regarding causation, Dr. Jimenez wrote as follows:

> "The patient's history is very clear; in that, prior to his work-related event, which occurred on April 17, 2012, the patient was working full duty, no restrictions, as a firefighter and carrying up to 30 pounds of equipment on his back while at work, with no

> complaints regarding his knee, passing his physical examinations without any issues regarding his knee as well as running 8 to 10 miles of cardio nearly every day without problems in his knee, but after the event he was severely disabled; and therefore, there is clear causation. There is evidence of some mild preexisting degenerative changes in the knee as a function of a partial meniscectomy when the patient was 14, but he was functioning very well prior to the injury and after the injury on April 17, 2012, he has had tremendous disability and a rapid degradation of his knee cartilage. Knee arthroscopy was an attempt to slow the rate at which the knee is wearing out and it helped him temporarily, but after multiple injections, physical therapy, and other conservative modalities it is clear that the patient will require a knee [a]rthroplasty.
>
> The diagnosis is posttraumatic osteoarthritis and an exacerbation of some preexisting degeneration. He had an acute meniscal tear at the time of the injury on April 17, 2012, and the need for knee replacement now in 2014 is clearly related to and caused by the work-related event on April 17, 2012."

Dr. Jimenez reviewed Dr. Forsythe's opinion and found it lacking in foundation. In support, Dr. Jimenez reiterated that claimant was symptom-free prior to the injury on April 17, 2012. However, the injury on that date, which resulted in a meniscal tear, "exacerbated, aggravated, and worsen [*sic*] his preexisting degeneration, which *** has led to severe posttraumatic arthritis" and the need for a knee arthroscopy.

¶ 19 Based on the foregoing evidence, the arbitrator awarded claimant benefits. The arbitrator noted that it was undisputed that claimant sustained a work-related injury on April 17, 2012. Thus, the arbitrator focused on whether claimant's current condition of ill-being was causally related to his work injury of April 17, 2012. The arbitrator determined that although claimant

sustained an injury to his left knee as a teenager, he fully recovered from that injury, was asymptomatic for 47 years, and was able to perform his duties as a firefighter. The arbitrator further noted that despite the initial surgery, claimant's condition continued to deteriorate to the point that he required a left knee arthroplasty. The arbitrator found the medical opinion of Dr. Forsythe "less convincing" than those of Dr. Nikkel and Dr. Jimenez. The arbitrator stated that Dr. Forsythe failed to explain why claimant's current condition was not an aggravation or why he returned to baseline following his initial surgery. The arbitrator further concluded that claimant was forced into retirement on November 20, 2012, because respondent would not accommodate his permanent work restrictions and that he was still receiving medical care for his injuries. The arbitrator awarded claimant TTD benefits for the period from November 20, 2012, through "the present and continuing while [claimant] continues to undergo post-surgical treatment for his knee." The arbitrator also ordered respondent to pay for the arthroplasty performed on December 8, 2014.

¶ 20 The Commission made some corrections to the arbitrator's decision, including clarifying that the award of TTD benefits spanned from November 20, 2012, to April 9, 2015 (the date of the arbitration hearing), a period of 124-3/7 weeks. The Commission otherwise affirmed and adopted the decision of the arbitrator and remanded the matter to the arbitrator for further proceedings pursuant to *Thomas*, 78 Ill. 2d 327. On judicial review, the circuit court of Cook County confirmed the decision of the Commission. This appeal by respondent ensued.

¶ 21 II. ANALYSIS

¶ 22 On appeal, respondent raises two contentions of error. First, respondent argues that the Commission erred in awarding claimant TTD benefits after November 20, 2012, the date of claimant's retirement from the fire department. Second, respondent argues that the

Commission's award of medical benefits following claimant's retirement on November 20, 2012, is "factually erroneous and legally incorrect." We address each contention in turn.

¶ 23 A. TTD

¶ 24 Respondent's first assignment of error concerns the Commission's TTD award. An employee is temporarily totally disabled from the time an injury incapacitates him until such time as he is as far recovered as the permanent character of the injury will permit. *Archer Daniels Midland Co. v. Industrial Comm'n*, 138 Ill. 2d 107, 118 (1990); *Westin Hotel v. Industrial Comm'n*, 372 Ill. App. 3d 527, 542 (2007). To be entitled to TTD benefits, the employee must establish not only that he did not work, but also that he is unable to work and the duration of that inability to work. *Pietrzak v. Industrial Comm'n*, 329 Ill. App 3d 828, 832 (2002); see also *Interstate Scaffolding, Inc. v. Illinois Workers' Compensation Comm'n*, 236 Ill. 2d 132, 146 (2010) ("[W]hen determining whether an employee is entitled to TTD benefits, the test is whether the employee remains temporarily totally disabled as a result of a work-related injury and whether the employee is capable of returning to the work force."). Once an injured employee has reached MMI, the disabling condition has become permanent and he or she is no longer eligible for TTD benefits. *Nascote Industries v. Industrial Comm'n*, 353 Ill. App. 3d 1067, 1072 (2004). The factors to consider in determining whether an employee has reached MMI include a release to work, medical testimony or evidence concerning the employee's injury, and the extent of the injury. *Land & Lakes Co. v. Industrial Comm'n*, 359 Ill. App. 3d 582, 594 (2005). The issue of whether an employee is entitled to TTD benefits and the period of time during which the employee is temporarily totally disabled is a question of fact for the Commission, and the Commission's decision on such matters will not be set aside on review unless it is contrary to the manifest weight of the evidence. *Archer Daniels Midland Co.*, 138 Ill.

2d at 118-19. A decision is against the manifest weight of the evidence only if an opposite conclusion is clearly apparent. *Accolade v. Illinois Workers' Compensation Comm'n*, 2013 IL App (3d) 120588WC, ¶ 17.

¶ 25 Respondent raises two challenges to the Commission's award of TTD benefits. We first address respondent's claim that the Commission's award of TTD benefits after November 20, 2012, is against the manifest weight of the evidence because it is "not supported by [claimant's] testimony nor [*sic*] any of the medical record exhibits admitted into evidence at the Commission." We disagree.

¶ 26 The evidence in this case establishes that claimant's April 17, 2012, injury resulted in a left knee medial meniscal tear and rendered symptomatic claimant's preexisting left knee degenerative disease. Claimant's treating physician, Dr. Nikkel, surgically repaired the torn meniscus, but noted that the procedure would not cure the degenerative joint disease in the left knee and that claimant would likely require a joint replacement. Despite the surgery, claimant continued to experience problems with his left knee.

¶ 27 On November 20, 2012, Dr. Nikkel concluded that claimant would be unable to perform the critical demands of his position as a firefighter. At that time, Dr. Nikkel released claimant to work with permanent restrictions of no stooping, bending, crawling, climbing, or lifting greater than 20 pounds. He also scheduled claimant for a three-month follow-up consultation regarding total knee replacement. Claimant informed respondent of the restrictions imposed by Dr. Nikkel, but respondent refused to accommodate the restrictions. As a result, claimant retired from his position as a firefighter. Thereafter, claimant engaged in rehabilitation at home through the end of 2012 and into 2013. Nevertheless, claimant continued to experience pain and stiffness in his left leg. By February 2014, claimant's condition had deteriorated to the point that he again

consulted Dr. Nikkel. Dr. Nikkel documented that claimant was having difficulty with activities of daily living and sleeping. Claimant also described pain while walking short distances as well as clicking, popping, buckling, instability, and locking of the left knee. Dr. Nikkel reiterated his diagnosis of degenerative joint disease. Dr. Nikkel opined that while claimant's April 2012 injury did not cause the condition, "it definitely accelerated and aggravated an ongoing condition" and "prevented him from returning to work as a *** fire fighter." Dr. Nikkel administered conservative treatment, but noted that claimant would eventually need a knee replacement. To that end, on December 8, 2014, Dr. Nikkel performed a total left knee replacement with arthroplasty. At the arbitration hearing, claimant testified that his post-surgical recovery has been "very slow and painful" and required a third left knee surgery. In light of the foregoing, the Commission could have reasonably found that, because the condition of claimant's left knee continued to deteriorate after the initial surgery, eventually leading to a joint replacement, claimant had not reached MMI by November 20, 2012. While Dr. Forsythe opined that claimant had reached MMI in regard to the April 2012 accident, the Commission was not required to accept this opinion especially given the contrary evidence set forth above, the Commission's finding that Dr. Forsythe's opinion was "less convincing" than the other physicians' opinions, and Dr. Forsythe's failure to provide a date of MMI. See *O'Dette v. Industrial Comm'n*, 79 Ill. 2d 249, 253 (1980). In short, we cannot say that the Commission's award of TTD benefits after November 20, 2012, is against the manifest weight of the evidence as a contrary conclusion is not clearly apparent.

¶ 28 Respondent also argues that the Commission's award of TTD benefits after November 20, 2012, is erroneous as a matter of law. According to respondent, when an employee voluntarily retires, the retirement is equivalent to a refusal to work, authorizing the termination

of TTD benefits, especially where the employee is at MMI and released from care by his treating surgeon. In this case, respondent asserts that claimant "unilaterally elected to retire his employment with [respondent]" after Dr. Nikkel found claimant to be at MMI. Hence, respondent insists that the award of TTD benefits after November 20, 2012, is erroneous and must be vacated. Claimant responds that the fact that he retired does not affect his right to TTD benefits because he was forced into retirement. We agree with claimant.

¶ 29 An issue similar to the one presented here was addressed in *Land & Lakes Co. v. Industrial Comm'n*, 359 Ill. App. 3d 582 (2005). In that case, the claimant attempted to return to light-duty work following his injury, but was instructed that his position had been filled. *Land & Lakes Co.*, 359 Ill. App. 3d at 586. Approximately two weeks later, the claimant began receiving a retirement pension and social security benefits. *Land & Lakes Co.*, 359 Ill. App. 3d at 586-87. The claimant continued to experience back problems following his retirement, and one of the claimant's doctors opined that because of the claimant's level of discomfort, there were very few employment situations that the claimant could tolerate. *Land & Lakes Co.*, 359 Ill. App. 3d at 587-88. At the arbitration hearing, the claimant explained that he sought pension and social security benefits because he needed money to meet his living expenses. *Land & Lakes Co.*, 359 Ill. App. 3d at 589. The Commission found the claimant's injury compensable and awarded TTD benefits for a period of time encompassing the date after which the claimant retired. *Land & Lakes Co.*, 359 Ill. App. 3d at 590. On appeal, the employer argued that the Commission erred in awarding the claimant TTD benefits beyond the date the claimant voluntarily retired. *Land & Lakes Co.*, 359 Ill. App. 3d at 595. We acknowledged decisions upholding the Commission's denial of TTD benefits after finding that an employee had voluntarily ceased working. *Land & Lakes Co.*, 359 Ill. App. 3d at 595 (citing *City of Granite City v. Industrial Comm'n*, 279 Ill.

App. 3d 1087, 1090-91 (1996) and *Gallentine v. Industrial Comm'n*, 201 Ill. App. 3d 880, 887 (1990)). We determined, however, that the Commission was not required to find that the claimant had voluntarily left his employment given "competent evidence that [the] claimant was unable to work and that he retired not by choice but because he needed income." *Land & Lakes Co.*, 359 Ill. App. 3d at 595. We distinguished *City of Granite City* and *Gallentine* on the ground that in those cases, "the Commission chose to rely on evidence that the claimant could have worked but instead chose not to work." *Land & Lakes Co.*, 359 Ill. App. 3d at 595.

¶ 30 Here, the record shows that Dr. Nikkel released claimant to return to work on November 20, 2012, with permanent work restrictions of no stooping, bending, crawling, climbing, or lifting greater than 20 pounds. There was no evidence that claimant refused to work within his restrictions. Rather, respondent would not accommodate the restrictions. Indeed, claimant testified that he loved his job and planned to continue working as a firefighter for a few more years. However, when respondent refused to accommodate the restrictions, he chose to retire from his position. Under these circumstances, the Commission concluded that respondent's failure to accommodate the restrictions forced claimant to retire. As in *Land & Lakes Co.*, this was a reasonable conclusion from the evidence of record. In so holding, we find the cases cited by respondent to be distinguishable on the basis that there was evidence in those cases that the claimant could have worked but chose not to. See *Sharwarko v. Illinois Workers' Compensation Comm'n*, 2015 IL App (1st) 131733WC, ¶¶ 48-49 (affirming the Commission's decision to deny TTD benefits beyond date claimant voluntarily retired where there was evidence that the employer would have accommodated the claimant's restrictions had he not retired); *City of Granite City*, 279 Ill. App. 3d at 1090-91 (upholding decision to deny TTD benefits beyond date claimant took a disability retirement where there was no evidence that the claimant could not

return to light-duty work); and *Lukasik v. Industrial Comm'n*, 124 Ill. App. 3d 609, 614-15 (1984) (holding that the Commission's decision to terminate TTD benefits after two doctors released the claimant for light-duty work was not against the manifest weight of the evidence, even though "the record reflect[ed] that the claimant may not have fully recovered" from his work-related injuries, because the Commission "could properly have determined that he was no longer totally disabled and unable to work" at that time).

¶ 31 B. Medical Expenses

¶ 32 Respondent also challenges the Commission's award of medical benefits. Section 8(a) of the Act (820 ILCS 305/8(a) (West 2012)) governs the payment of medical expenses. That provision states in relevant part:

> "The employer shall provide and pay the negotiated rate, if applicable, or the lesser of the health care provider's actual charges or according to a fee schedule, subject to Section 8.2 [(820 ILCS 305/8.2 (West 2012))], in effect at the time the service was rendered for all the necessary first aid, medical and surgical services, and all necessary medical, surgical and hospital services thereafter incurred, limited, however, to that which is reasonably required to cure or relieve from the effects of the accidental injury, even if a health care provider sells, transfers, or otherwise assigns an account receivable for procedures, treatments, or services covered under this Act." 820 ILCS 305/8(a) (West 2012).

The claimant bears the burden of proving, by a preponderance of the evidence, his entitlement to an award of medical expenses under section 8(a) of the Act. *Westin Hotel v. Industrial Comm'n*, 372 Ill. App. 3d 527, 546 (2007). Questions as to the reasonableness

of medical charges, the necessity of the medical services provided, and the causal relationship between the medical services and the work-related injury are questions of fact to be resolved by the Commission. *Shafer v. Illinois Workers' Compensation Comm'n*, 2011 IL App (4th) 100505WC, ¶ 51; *Max Shepard, Inc. v. Industrial Comm'n*, 348 Ill. App. 3d 893, 903 (2004). A court of review will not disturb the Commission's decision on a factual matter unless it is against the manifest weight of the evidence. *Dye v. Illinois Workers' Compensation Comm'n*, 2012 IL App 93d) 110907WC, ¶ 10. As noted above, a decision is against the manifest weight of the evidence only if an opposite conclusion is clearly apparent. *Accolade*, 2013 IL App (3d) 120588WC, ¶ 17.

¶ 33 Respondent concedes that claimant's April 17, 2012, accident resulted in claimant tearing the medial meniscus of his left knee. Respondent asserts that it has paid all medical expenses related to the repair of the meniscus. Respondent, however, disputes claimant's entitlement to medical benefits after his retirement on November 20, 2012, including a total left knee replacement, is causally related to the April 17, 2012, work occurrence. According to respondent, the left knee arthroplasty was the result of claimant's preexisting degenerative joint disease and osteoarthritis. Preliminarily, we note that claimant does not cite any authority in support of this argument. Accordingly, we find that respondent has forfeited this issue for purposes of appeal. Ill. S. Ct. R. 341(h)(7) (eff. Jan. 1, 2016); *TTC Illinois, Inc./Tom Via Trucking v. Illinois Workers' Compensation Comm'n*, 396 Ill. App. 3d 344, 355 (2009). Forfeiture aside, we find that respondent's argument lacks merit.

¶ 34 Respondent's argument is premised on a claim that the Commission's finding of a causal relationship between his need for a total left knee replacement and his April 2012 work accident was erroneous. As noted above, causation presents an issue of fact. *Max*

Shepard, Inc., 348 Ill. App. 3d at 903. 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 v. Illinois Workers' Compensation Comm'n*, 397 Ill. App. 3d 665, 674 (2009). In this case, it is undisputed that claimant's need for a total left knee replacement was the result of degenerative joint disease. The Commission, however, was presented with conflicting opinions on whether claimant's degenerative joint disease and his need for a total left knee replacement were causally related to his April 2012 work accident. Dr. Nikkel, claimant's treating physician, found that although claimant's April 2012 work accident did not cause of the degenerative joint disease, the work accident "definitely accelerated and aggravated an ongoing condition," eventually necessitating joint-replacement surgery. Similarly, Dr. Jimenez opined that claimant's work injury, which resulted in a meniscal tear, "exacerbated, aggravated, and worsen [*sic*] his preexisting degeneration, which *** has led to severe posttraumatic arthritis" and the need for a total left knee replacement. Dr. Forsythe also agreed that claimant suffered from degenerative joint disease resulting in the need for knee replacement surgery. However, he disputed any link between claimant's condition and his work injury. Rather, Dr. Forsythe opined that the degenerative joint disease was "likely the long-term sequela" of the left knee injury claimant sustained as a teenager. The Commission resolved the conflict in the medical evidence in claimant's favor. It found Dr. Forsythe's opinion "less convincing" on the ground that he failed to explain why claimant's current condition was not an aggravation or why he returned to baseline following his initial surgery. Given the conflicting evidence, the Commission's role as fact finder, and the deferential standard of

review applicable, we cannot say that the Commission's decision was against the manifest weight of the evidence. See *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 204-05 (1993) (noting that because a work-related injury need only be *a* causative factor in the resulting condition of ill-being, a compensable injury may be found upon showing that an employee suffered from a preexisting condition that was aggravated or accelerated by the employment).

¶ 35 III. CONCLUSION

¶ 36 For the reasons set forth above, we affirm the judgment of the circuit court of Cook County, which confirmed the decision of the Commission. This cause is remanded to the Commission for further proceedings pursuant to *Thomas*, 78 Ill. 2d 327.

¶ 37 Affirmed and remanded.