2019 IL App (1st) 172853WC-U

Order filed: January 18, 2019

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

LAURIE LAIDLOW,	)	Appeal from the Circuit Court
	)	of Cook County, Illinois
	)	
Appellant,	)	
	)	
v.	)	Appeal No. 1-17-2853WC
	)	Circuit No. 16-L-50852
	)	
ILLINOIS WORKERS' COMPENSATION COMMISSION, *et al.*, (Paramount Staffing, Inc., and Little Lady Foods, Inc., Appellants).	)	Honorable James Carl Anthony Walker, Judge, Presiding.

PRESIDING JUSTICE HOLDRIDGE delivered the judgment of the court.
Justices Hoffman, Hudson, Cavanagh, and Barberis concurred in the judgment.

ORDER

¶ 1 *Held*: The Commission's finding that the claimant failed to prove that he sustained an accident arising out of his employment was not against the manifest weight of the evidence.

¶ 2 The claimant, Laurie Laidlow, filed an application for adjustment of claim under the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2012)), seeking benefits for injuries to his right knee which he claimed to have sustained on March 23, 2013, while he was

working for Paramount Staffing, Inc. (Paramount) and Little Lady Foods, Inc. (Little Lady) (collectively, the employers). The claimant sought temporary total disability (TTD) benefits, permanent partial disability (PPD) benefits, and medical expenses. After conducting a hearing, an arbitrator found that the claimant had failed to prove that he sustained an accidental injury arising out of and in the course of his employment. In light of this finding, the arbitrator found that the claimant had failed to establish a causal connection between any work-related accident and the condition of ill-being in the claimant's right knee (including a horizontal tear in the lateral meniscus of the knee that was diagnosed approximately four months after the alleged work accident and surgically repaired almost a year after the alleged accident).

¶ 3 The claimant appealed the arbitrator's decision to the Illinois Workers' Compensation Commission (Commission). The Commission unanimously affirmed and adopted the arbitrator's decision.

¶ 4 The claimant then sought judicial review of the Commission's decision in the circuit court of Cook County. The circuit court confirmed the Commission's decision.

¶ 5 The claimant appeals the circuit court's decision.

¶ 6 FACTS

¶ 7 The following factual recitation is taken from the evidence presented at the arbitration hearing in this matter, which was conducted on February 27, 2105, and November 18, 2015.

¶ 8 The claimant worked for Paramount, an employment agency that supplies light industrial and logistics staffing services to businesses. At all times relevant to this case, the claimant was on loan to work at Little Lady in Gurnee, Illinois. The claimant testified that he suffered an injury while he was arriving for work at Little Lady on March 23, 2013.[1] The claimant stated

[1] In his initial Application for Adjustment of Claim, the claimant alleged an injury date of March 23,

that, as he began going through the employee entrance door to enter the work premises, he noticed that the door had not latched and closed properly. By the time he grabbed the latch or handle to open the door, the door was already opening towards him, moving from his right side to his left side. The claimant tried to jump out of the way but the door "caught" him and "slammed" him on the inside of his right knee. Immediately thereafter, the claimant felt a stinging sensation in his right knee. After he flexed the knee several times it felt good enough for him to walk to his work station, so he entered the building, punched in, and began walking to his work station, which was located approximately one city block from the punch clock. As the claimant walked, he continued to feel stinging in his knee. However, he was able to make it to his work station.

¶ 9 While employed at Little Lady, the claimant worked on an assembly line making pizzas. He had to lift blocks of cheese onto a conveyor that moved the cheese into a shredder. He lifted six blocks of cheese at a time. After lifting the cheese, the claimant had to pivot, rotate to his left, and place the cheese on the conveyor, which was located behind him and to his left. The claimant testified that, after he arrived at his work station on March 23, 2013, he was able to perform this sequence of movements twice without incident. On the third time, however, his right knee twisted, buckled, and "[gave] out" as he was turning and pivoting. The claimant experienced pain which he rated a 10 out of 10 and yelled for help. He was unable to get up or straighten his right leg. The claimant testified that two of his supervisors, "Ray" and "Mike," came over to the claimant, lifted him under his right arm, and took him to the packaging area where he was placed on a pallet and given a walker to use. According to the claimant, when one

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2013. He subsequently filed an Amended Application for Adjustment of Claim alleging an injury date of March 21, 2013. After reviewing the medical records, the claimant's timecards, and the claimant's testimony, the Commission determined that, if the accident occurred at all, it would have occurred on March 23, 2013. The claimant does not dispute that finding on appeal.

of his supervisors asked him what had happened, the claimant responded that the door had hit him in the knee when he came in, that he initially felt that there was no problem with the knee, but that the knee later buckled when he lifted the cheese.

¶ 10 The claimant testified that he was brought to a back room where he was told to lie down and wait for Margarita Mercado, Paramount's second shift supervisor, who would come to get him. He was in excruciating pain. When Mercado arrived approximately 5 or 10 minutes later, she helped the claimant get to the cafeteria. The claimant braced his hands around Mercado's neck and hopped on his left foot without putting any weight on his right foot. The claimant sat down on a bench in the cafeteria, and Ray brought an icepack which he placed on the claimant's injured knee. After about 20 minutes, the claimant noticed that his knee had started swelling.

¶ 11 According to the claimant, Mercado told the claimant that she needed a statement from him about what happened. She helped the claimant to the office, where he gave a statement as Mercado typed it. The claimant testified that he signed the statement but he "didn't even bother to read it" because he was in a lot of pain at the time. The claimant claimed that he asked for a copy of the statement but never received it.

¶ 12 Mercado testified on the employers' behalf. Her office was at Little Lady Foods. Mercado stated that, on March 23, 2013, she was starting her shift at Little Lady when the claimant came into Mercado's office and said that he had hit his knee on the main door while coming into the facility. Mercado looked at the claimant's knee and did not see any cuts or bruises. Mercado and Queena Davis, another shift supervisor who was just finishing her shift at the time, told the claimant that they needed to prepare an "Injury/Incident" report and asked the claimant to tell them what had happened and how he had injured his knee. Mercado did not recall the claimant saying anything about having twisted his knee while moving cheese to a

conveyor belt or having his knee buckle or "give out" on him at that time. Nor did Mercado recall any supervisor telling her that he saw the claimant fall or heard the claimant yell while the claimant was working at the conveyor belt. Mercado testified that, if any supervisor had made such a statement, Mercado would have written it down. To Mercado's knowledge, the only incident that happened was that the claimant had hit his knee with the front door.

¶ 13 Mercado further testified that the first time she saw the claimant on March 23, 2013, was when he came to her office. Mercado did not remember Ray or Mike coming to her and telling her that the claimant was injured and lying in a back office area. No one told Mercado that the claimant was somewhere else in the building and that Mercado needed to go get him. Mercado never went to the claimant anywhere else in the building. Nor did she pick up the claimant and help him walk.

¶ 14 Mercado testified that, when the claimant came to her office complaining of a knee injury, she and Davis prepared a written "First Aid/Incident Report," which the claimant reviewed and signed in front of Mercado. Davis signed the report on behalf of Paramount. Before the claimant signed the report, Mercado went over its contents with the claimant. The report signed by Davis and the claimant states that the claimant "was entering the little lady foods front door and hit his right leg with the door." Mercado offered the claimant medical treatment to be paid by the company, which he refused. Thereafter, Mercado gave the claimant a form indicating that he was waiving such treatment. After Mercado explained the waiver form to the claimant, the claimant signed the form in front of Mercado. Davis signed the form on behalf of Paramount.

¶ 15 Mercado further stated that it was common practice for her to send Paramount an e-mail about "any injuries that occur" as soon as the required documents are completed. Mercado

testified that she sent Paramount an e-mail reporting the claimant's alleged injury at 5:18 p.m. on March 23, 2013. That e-mail was entered into evidence during the arbitration proceeding and was identified by Mercado. Mercado's March 23, 2013, e-mail states that the claimant was given first aid treatment for his hitting his right knee when rushing into the building at Little Lady's food entrance door.[2]

¶ 16 Mercado agreed that, whenever someone tells her that there is something wrong with some part of the facility, her job requires her to "go and investigate that." She testified that, after the claimant reported the alleged incident with the front door at Little Lady, she investigated the door in question. She did not see any visible defects in the door, such as dents, cracks, or broken glass. Mercado stated that, if someone is trying to get in the building through that door, he needs to show his I.D. to a security person who buzzes him in (*i.e.*, the security person "buzzes the door" so that it unlocks and opens). According to Mercado, the door does not open unless it has been buzzed and then pulled open, unless someone is coming through the door from the other side (which should not happen because there is a separate door for exiting the building). When asked whether there was some apparatus on inside of the building at the top of the door (such as a pneumatic or mechanical door closer) that makes sure that the door automatically closes after being opened, the claimant responded that "it's something like that" but that she "really [didn't] recall" because she didn't "look up much." However, Mercado confirmed that the door automatically closed after having been opened and that it would never stay open unless someone

[2] The claimant contends that "the only email transmitting a report regarding an accident was one submitting a first aid report of [March 23, 2013] which was not emailed on March 23 but on April 1." The claimant further maintains that "no email of any document *from the date of occurrence* was placed in evidence by the [employer]." After reviewing the record, we conclude that these assertions are inaccurate. The record indicates that Mercado sent an email reporting the claimant's accident to the employer (and purporting to attach a written report of the incident) on March 23, 2013. On April 1, 2013, Jomary Santiago, (who appears to be another Paramount employee), forwarded Mercado's March 23, 2013, e-mail to the employer.

was applying pressure to it. She further testified that, when she inspected the door after the claimant reported his alleged accident, she opened and closed the door to see if anything was wrong. She found that the door closed "by itself," "[t]here was nothing out of place," and "[e]verything was fine." She further acknowledged that, if something were wrong with that door, "we would need to report it."

¶ 17 When the arbitration hearing resumed on November 18, 2015,[3] Mercado was asked during cross-examination about a "First Report of Injury" form that Santiago signed on Paramount's behalf on April 11, 2013. That form indicates that: (1) the claimant hit his right leg on Little Lady's front door as he was entering the building; (2) at the time of the alleged injury, the claimant was "rushing into the building because he was late to his shift"; (3) the incident was reported to Mercado on March 23, 2013; (4) the employer considered the accident to be "questionable"; and (5) Santiago's "First Report of Injury" form was "faxed to corporate" on April 11, 2013. Mercado could not recall whether she had anything to do with the actual preparation of the "First Report of Injury" document. However, she testified that some of the statements that Santiago included in the document were based on information that she had provided to Santiago. For example, Mercado told Santiago that the claimant was rushing into the building at the time of the alleged incident because he was late for his shift. When asked why the employer thought the accident was questionable, Mercado testified that, during her conversation with the claimant, she thought that "it didn't sound correct" to her (*i.e.*, the claimant's accident seemed questionable to Mercado based upon her conversation with him). Mercado did not recall whether she documented anything to that effect after her conversation with the claimant. Mercado also could not recall whether she had reviewed the "First Report of

[3] The first day of the arbitration hearing, which ended during Mercado's cross-examination, was held on February 27, 2015. Mercado's testimony resumed on November 18, 2015.

Injury" prior to her testimony or whether anyone had asked her to review any documents before coming in to testify.[4]

¶ 18 Mercado was also asked about an "Accident Investigation Report" created by Paramount on April 11, 2013, which stated that the claimant "was rushing into the building because he was late to his shift and he was entering the building front door and he hit his right leg with [the] front door." Mercado could not recall facts about that report.

¶ 19 During redirect examination, Mercado was shown a group of nine photographs of the doors that employees use to enter the Little Lady facility. Mercado testified that she took the photographs. The employers' counsel asked Mercado, "[o]n the day you took the photos, had anything been done to the doors that had altered them in any way so that they might be different from the date of the incident?" Mercado responded, "[n]o." She agreed that the doors depicted in the photographs were "in the exact same condition as they were previously." Mercado testified that one of the photographs of the first entry door showed a "mechanical mechanism" on the top of the door. Mercado agreed that this mechanism provided resistance to the door so that it did not "just swing open." During re-cross examination, Mercado admitted that she could not recall when she took the photographs. She knew she took them after the claimant's alleged work accident, but she could not recall whether it was a week, a month, or two months afterwards.

¶ 20 On March 27, 2013, the claimant went to the Lake County Health Department for medical treatment.[5] The medical record of that visit reflects that the claimant reported that he was experiencing right lateral thigh pain after "banging" his right knee "six days ago." His gait

[4] During cross-examination at the February 27, 2015, arbitration hearing, Mercado testified that she had reviewed documents before testifying but she did not bring any of the documents she reviewed to the hearing.

[5] The claimant testified that he initially went to the Lake County Health Department on the day after the work accident, but there was no doctor available at that time.

was normal. He had mild tenderness with muscle spasm of the right lateral muscles with no swelling or redness. The medical record did not state where the claimant's alleged injury had occurred.

¶ 21 On April 12, 2013, the claimant sought treatment at Vista Medical Center East (Vista) complaining of a right knee injury. The medical report of that visit indicates that injury took place on March 23, 2013, at the claimant's home when the claimant "banged into a wall."[6] The claimant had full range of motion in his right knee without pain. The treating physician noted mild tenderness in the patella with some swelling but no ligamentous instability. The claimant was diagnosed with a right knee contusion.

¶ 22 On July 9, 2013, the claimant underwent an MRI scan of his right knee which showed a grade III horizontal tear in the anterior horn of lateral meniscus reaching up to the superior surface. The medical meniscus and the collateral and cruciate ligaments were normal. On April 2, 2014, the claimant underwent surgery to repair his right knee. Thereafter, he received eleven treatments of vasopneumatic compression therapy. On June 4, 2014, the claimant was discharged from care and underwent no further medical treatments thereafter other than occasional medication.

¶ 23 During the arbitration hearing, the claimant testified that he returned to work for a different employer on June 5, 2014. The claimant stated that he still has pain in his right knee that prevents him from performing certain activities that he used to be able to perform, such as jogging, climbing ladders, and doing roofing work. However, he testified that he has learned to manage the pain and can be gainfully employed on a daily basis without losing time from work.

[6] The claimant testified that he never informed the physicians at Vista that he was injured at home.

¶ 24 The arbitrator found that the claimant failed to prove an accident arising out of and in the course of his employment. The arbitrator noted that, in each of the applications for adjustment of claim and each of the section 8(a) petitions that the claimant filed, the claimant alleged that his injury "occurred as a result of a not properly latched door which hit [his] right knee." However, the arbitrator observed that: (1) photos of the door at issue showed that the door has a door closer mechanism located at the top of the door; and (2) Mercado testified that this mechanism "provides resistance when the door is being opened so that the door cannot be swung open." The arbitrator concluded that the photos "directly contradict[ed] [the claimant's] assertion that the door in question can be swung open with the force necessary to cause the alleged injury." The arbitrator noted that Mercado testified that nothing had been done to the doors since the date of alleged incident.

¶ 25 In light of the records provided and the conflicting testimony presented, the arbitrator found that of the history the accident provided by the claimant was "not persuasive." The arbitrator concluded that the door at issue "cannot feasibly be swung open in the manner which [the claimant] describe[d]." In support of this finding, the arbitrator relied upon Mercado's testimony and her photos of the door. Accordingly, the arbitrator found that the claimant did not sustain a compensable accident while entering Little Lady's premises.[7]

¶ 26 In light of his finding of no compensable accident, the arbitrator found that the claimant's current condition of ill-being is not causally related to an accident which arose out of claimant's employment with the employer. In further support of its causation finding, the arbitrator found

[7] The arbitrator also noted in passing that the April 12, 2013, medical record of the claimant's treatment at Vista indicates that the claimant had injured his right knee while running into a wall "at home." The arbitrator observed that this record was inconsistent with the claimant's pleadings, his testimony, and the other medical records, and there was no explanation for the inconsistency. However, the arbitrator concluded that "given histories do vary it was conceivable a work door was later confused with an entrance door at work."

that "the report of a doctor about one year after the accident stating the door hitting was a cause of a horizontal tear of the [claimant's] meniscus [was] not at all persuasive." In light of his findings of no accident and no causation, the arbitrator denied all the benefits sought by the claimant.

¶ 27 The claimant appealed the arbitrator's decision to the Commission, which unanimously affirmed and adopted the arbitrator's decision.

¶ 28 The claimant then sought judicial review of the Commission's decision in the circuit court of Cook County. The circuit court confirmed the Commission's decision. The claimant argued before the circuit court that Mercado's testimony regarding the door closer mechanism lacked foundation (and therefore lacked credibility) because, *inter alia*, Mercado had no knowledge or expertise on door mechanics, could not recall the date when the photos were taken, and did not testify that the door was working on the date on the incident. The claimant also maintained that Paramount had "failed to provide valid evidence that there was a functioning [h]ydraulic door closer on the date of the occurrence or that, if there was, that as a result the injury could not have occurred as [the claimant] described." The circuit court ruled that these arguments were "largely immaterial to the matter at hand" because it was the claimant's burden to prove by the preponderance of the evidence that his injury arose out of the scope of his employment, and it was not Paramount's burden to "provide valid evidence." Moreover, the circuit court found that it was the Commission's responsibility to resolve conflicts in the evidence, assess the witnesses' credibility, and assign weight to the evidence, and it noted that the Commission had found Mercado's testimony to be credible and persuasive. The circuit court found that, based on the photographs and Mercado's testimony, the Commission's findings were reasonably supported by the evidence and were not against the manifest weight of the evidence. Accordingly, the circuit

court affirmed the trial court's denial of benefits under the Act.

¶ 29 This appeal followed.

¶ 30 ANALYSIS

¶ 31 As an initial matter, the claimant argues on appeal that the employers' appellee's brief should be stricken because it contains no proper citations to the record on appeal either in the fact section or in the argument section. The claimant is correct that the employers' brief is devoid of proper citations to the record. It contains a handful of citations to exhibits filed during the arbitration hearing and a single citation to a hearing transcript, but no citations to any pages in the common law record. Moreover, several factual statements in the employers' brief include no supporting citations of any kind. Illinois Supreme Court Rule 341(h)(6) provides that a brief on appeal shall contain a statement of facts "with appropriate reference to the pages of the record on appeal." Ill. S. Ct. R. Rule 341(h)(6) (eff. Jan. 1, 2016). Rule 341(h)(7) requires a brief on appeal to contain an argument section which "shall contain" the contentions of the appellant and the reasons therefor with citation of the authorities "and the pages of the record relied on." Ill. S. Ct. R. Rule 341(h)(7) (eff. Jan. 1, 2016). Both of these rules apply to briefs filed by appellees as well as appellants. Ill. S. Ct. 341(i) (eff. Jan. 1, 2016). The employers' brief flagrantly violates these rules.

¶ 32 Our supreme court's rules are mandatory rules of procedure, not mere suggestions. *Menard v. Illinois Workers' Compensation Comm'n*, 405 Ill. App. 3d 235, 238 (2010). Consequently, Rule 341's mandates detailing the form and content of appellate briefs are compulsory. *Rosestone Investments, LLC v. Garner*, 2013 IL App (1st) 123422, ¶ 18. A party's failure to abide by Rule 341 makes appellate review of his or her claim more onerous and may result in waiver. *Menard*, 405 Ill. App. 3d at 238. When a party's brief fails to comply with Rule

341(h)(6), we may strike the brief or dismiss the appeal. *In re Marriage of Moorthy and Arjuna*, 2015 IL App (1st) 13207729, ¶ 2, n. 1; *Szczesniak v. CJC Auto Parts, Inc.*, 2014 IL App (2d) 130636, ¶ 8; see also *Rosestone Investments*, 2013 IL App (1st) 123422, ¶ 18 (ruling that where an appellate brief contains numerous Rule 341 violations and impedes our review of the case at hand because of them, "it is our right to strike that brief and dismiss the appeal"). We will not invoke either of these remedies in this case because the case is simple and the record is not voluminous. Accordingly, the employers' violations of Rule 341 have not seriously hindered our review. We have disregarded any improper factual statements or arguments that find no support in the record. Moreover, we admonish the employers' attorney to follow the requirements of the supreme court rules in future submissions.

¶ 33 Turning to the merits, the claimant argues that the Commission's finding that he failed to prove an accident arising out of his employment with the employers was against the manifest weight of the evidence.

¶ 34 The claimant has the burden of establishing, by a preponderance of the evidence, that his injury arose out of and in the course of his employment. *O'Dette v. Industrial Comm'n*, 79 Ill. 2d 249, 253 (1980); *Shafer v. Illinois Workers' Compensation Comm'n*, 2011 IL App (4th) 100505WC, ¶ 35. Whether the claimant sustained an injury that arose out of and in the course of his employment is a question of fact. *Hosteny v. Illinois Workers' Compensation Comm'n*, 397 Ill. App. 3d 665, 674 (2009). It is the function of the Commission to decide questions of fact, judge the credibility of witnesses, determine the weight that their testimony is to be given, and resolve conflicts in the evidence. *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 206 (2003); *O'Dette*, 79 Ill. 2d at 253.

¶ 35 The Commission's credibility determinations and other factual findings will not be

disturbed on review unless they are against the manifest weight of the evidence. *Shafer*, 2011 IL App (4th) 100505WC at ¶¶ 35–36. For a finding of fact to be contrary to the manifest weight of the evidence, an opposite conclusion must be "clearly apparent." *Id.* at ¶ 35; see also *Caterpillar, Inc. v. Industrial Comm'n*, 228 Ill. App. 3d 288, 291 (1992). The appropriate test is whether the record contains sufficient evidence to support the Commission's decision, not whether this court might have reached the same conclusion. *Metropolitan Water Reclamation District of Greater Chicago v. Illinois Workers' Compensation Comm'n*, 407 Ill. App. 3d 1010, 1013 (2011).

¶ 36 In this case, the claimant argues that he presented evidence establishing that he sustained two separate work-related accidents at Little Lady on March 23, 2013: first, he hit his knee on the front door, and then he twisted his knee at his workstation while lifting cheese onto a conveyor. The claimant contends that the Commission erred by ignoring the second accident, which the claimant characterizes as "undisputed" and "unchallenged." The claimant maintains that it was the second incident that caused his knee to give out and prompted the need for medical treatment. In essence, the claimant suggests that it was the second incident that caused his compensable work-related injury, regardless of whether it aggravated a preexisting injury or condition created by the first incident. The claimant argues that the second accident was clearly work-related and that the employers have never argued otherwise. Accordingly, the claimant contends that the Commission's finding of no compensable accident was against the manifest weight of the evidence.

¶ 37 We disagree. As an initial matter, the claimant has forfeited this argument by failing to raise it before the Commission. Throughout the arbitration and Commission proceedings, the claimant claimed to have sustained a single work-related accident when the entrance door at Little Lady swung open and struck his right knee. In his initial application for adjustment of

claim, the claimant described the work-related accident as follows: "Petitioner entering to punch in, door not latched and hit him in the right knee." The claimant's amended application of claim described the accident in identical terms. Although the claimant testified about both incidents during the arbitration hearing, he did not argue before the Commission that the cheese lifting incident caused or contributed to his knee injury. He did not include that argument in the statement of exceptions and brief that he filed with the Commission. Nor did he argue before the Commission that the arbitrator had erred by ignoring the cheese lifting incident. The claimant raised the argument for the first time in the circuit court. Accordingly, the argument is forfeited. *Carter v. Illinois Workers' Comm'n*, 2014 IL App (5th) 130151WC, ¶ 31; see also *R.D. Masonry, Inc. v. Industrial Comm'n*, 215 Ill. 2d 397, 414 (2005) ("Arguments not raised before the Commission are waived on appeal."); *U.S. Steel Corporation–South Works v. Industrial Comm'n*, 147 Ill. App. 3d 402, 406 (1986) (ruling that an issue raised for the first time in the circuit court "may be considered waived because the circuit court *** has no authority to consider evidence or arguments not presented before the Commission").

¶ 38 The claimant's assertion that the employers did not dispute the occurrence of the second accident or its causal connection to the claimant's work is therefore misleading. The employers did not address the alleged second accident before the Commission because the claimant did not raise it as a basis for his claim. The employers cannot be faulted for failing to dispute an issue that was never raised.

¶ 39 In any event, contrary to the claimant's suggestion, the claimant's account of the alleged second accident is contradicted by the record. None of the medical records states that the claimant injured his knee while lifting blocks of cheese onto a conveyor. Nor do any of the medical records describe a twisting injury of any kind. To the contrary, the medical records

consistently indicate that the claimant injured his knee by hitting a door or by "banging" his knee against some other surface. Moreover, each of the accident and investigation reports prepared by Paramount indicates that the claimant reported only one accident (the front door incident); none of these reports includes any mention of a second incident occurring at the claimant's work station. In addition, Mercado testified that she could not recall the claimant saying anything about having twisted his knee while moving cheese to a conveyor belt or having his knee buckle or "give out" on him at that time. Nor did Mercado recall any supervisor telling her that he saw the claimant fall or heard the claimant yell while the claimant was working at the conveyor belt. Mercado testified that, if any supervisor had made such a statement, she would have written it down. To Mercado's knowledge, the only incident that happened was that the claimant had hit his knee with the front door.[8]

¶ 40 Based on this evidence, the Commission could have reasonably found that the claimant's testimony about an alleged second accident lacked credibility and that no such accident occurred. Although the Commission did not reference the alleged second accident in its decision, the fact that the claimant's account of that alleged incident is contradicted by other record evidence might have contributed to the Commission's finding that the history of the accident provided by the claimant was "not persuasive."

¶ 41 However, even assuming *arguendo* that the Commission erred by failing to consider the

[8] Mercado also contradicted the claimant's account of the events that allegedly transpired immediately after the alleged second injury. The claimant testified that, immediately after the cheese lifting incident, Ray and Mike carried him to a back room where Mercado later met him and helped him get to the office. However, Mercado testified that the first time she saw the claimant that day was when he came to her office. She could not recall Ray or Mike telling her that the claimant was injured and lying in a back office area, nor could she recall anyone telling her that the claimant was somewhere else in the building and that Mercado needed to go get him. Mercado testified that she never went to the claimant anywhere else in the building. Nor did she pick up the claimant and help him walk.

claimant's argument regarding the alleged second accident, we could still affirm the Commission's decision. "We may affirm the Commission's decision on any basis supported by the record regardless of the Commission's findings or its reasoning." *Dukich v. Illinois Workers' Compensation Comm'n*, 2017 IL App (2d) 160351WC, ¶ 43 n.6; see also *General Motors Corp. v. Industrial Comm'n*, 179 Ill. App. 3d 683, 695 (1989). In other words, we review the result reached by the Commission, not the Commission's reasoning. The Commission's judgment in this case was that the claimant failed to prove a compensable work-related accident. The dispositive question is whether that judgment is against the manifest weight of the evidence, regardless of the rationale stated by the Commission. As noted above, there is ample evidence in the record suggesting that the alleged second accident never occurred. Thus, the only remaining question is whether the Commission's finding that the first alleged accident (the incident at the front door) was not compensable is against the manifest weight of the evidence. We now turn to that issue.

¶ 42 The claimant argues that the Commission erred by relying primarily upon the photos of the door and the door closer mechanism taken by Mercado in concluding that the alleged accident could not have happened in the manner described by the claimant. The claimant contends that Mercado's testimony about the door and the door closer mechanism lacked foundation and credibility because Mercado had no idea when the photos were taken, she was not an employee of Little Lady, and she had no expertise regarding the functioning of such mechanisms. Moreover, Mercado produced the photographs during the November 2015 arbitration hearing session approximately nine months after her initial hearing testimony approximately two years and seven months after the accident occurred. Thus, the claimant maintains that neither the photographs nor Mercado's testimony provide any credible evidence of

the condition or functioning of the door on the date of the accident. According to the claimant, the only evidence as to that issue was his own testimony. Accordingly, the claimant's account of the incident (*i.e.*, his claim that the door swung open toward him and struck him on the right knee) was unrebutted, and the Commission's finding of no compensable accident was against the manifest weight of the evidence.

¶ 43 We do not find the claimant's argument persuasive. Contrary to the claimant's assertion, his testimony was not the only evidence regarding the condition and functioning of the door at or near the time of the accident. During the February 2015 arbitration hearing, Mercado testified that, after the claimant reported the alleged accident, Mercado investigated the door in question. She did not see any visible defects in the door. She stated that the door will not open unless it is "buzzed" and unlocked from the inside after the person trying to enter shows his or her I.D. Even after the door is "buzzed" and unlocked, it must be "pulled open." Although Mercado could not recall the precise mechanism, she testified that there was "something like" a pneumatic or mechanical door closer on the door that makes sure that the door automatically closes after being opened. Mercado stated that the door closed after having been opened and it would never stay open unless someone was applying pressure to it. She further testified that, when she inspected the door after the claimant reported his alleged accident, she opened and closed the door to see if anything was wrong. She found that the door closed "by itself," "[t]here was nothing out of place," and "[e]verything was fine." She further acknowledged that, if something were wrong with that door, "we would need to report it."

¶ 44 Thus, even assuming *arguendo* that the photos of the door were of limited probative value and that Mercado's November 2015 testimony lacked foundation and credibility, Mercado's February 2015 testimony provided evidence based upon her own prior knowledge and

experience suggesting that the door could not have swung open in the manner described by the claimant or with the force required to cause the claimant's injury. It is the Commission's province to resolve conflicts in the evidence, to weigh the evidence, and to assess the credibility of the witnesses. *Sisbro*, 207 Ill. 2d at 206; *O'Dette*, 79 Ill. 2d at 253. We cannot say that the Commission's decision to credit Mercado's testimony over the claimant's account of the accident was against the manifest weight of the evidence. Moreover, we review the Commission's judgment, not its reasoning, and we may affirm the Commission's decision on any basis supported by the record. *Dukich*, 2017 IL App (2d) 160351WC, ¶ 43 n.6; *General Motors Corp.*, 179 Ill. App. 3d at 695. Even if the Commission placed undue emphasis on the photos and on Mercado's November 2015 testimony, there is sufficient evidence in the record to support the Commission's finding of no compensable accident. The Commission's finding that the claimant failed to prove an accident arising out of his employment was not against the manifest weight of the evidence.

¶ 45 The claimant also argues that we should draw an adverse inference against the employers because they failed to produce the first report of the accident that the claimant gave to Mercado shortly after the occurrence. In support of this argument, the claimant asserts that "Mercado clearly testified to creating an accident report which the [claimant] testified was never given to him." The claimant provides no citation to the record in support of this statement. Although the claimant testified that Mercado typed a statement dictated by the claimant that was never subsequently produced to the claimant, Mercado's testimony suggests that the initial statement she took from the claimant was included in the "First Aid/Incident Report" that she and Davis prepared. That report is included in the record. Thus, it is not clear that Mercado took any statement from the claimant on March 23, 2013, that was never made available to the claimant.

Given the conflicting testimony on this issue, we will not presume that such a statement exists.

¶ 46 Because we affirm the Commission's finding of no compensable accident, we need not address the remaining issues raised by the claimant.

¶ 47 CONCLUSION

¶ 48 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County, which confirmed the Commission's decision.

¶ 49 Affirmed.