

2013 IL App (3d) 120346WC-U  
No. 3-12-0346WC  
Order filed February 27, 2013

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT  
WORKERS' COMPENSATION COMMISSION DIVISION

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JOSEPH EKDAHL,	)	Appeal from the Circuit Court
	)	of Whiteside County.
Appellant,	)	
	)	
v.	)	No. 11-MR-86
	)	
ILLINOIS WORKERS' COMPENSATION	)	
COMMISSION, <i>et al.</i> ,	)	Honorable
	)	John L. Hauptman,
(Maloney Equipment, Appellee).	)	Judge, Presiding.

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

**ORDER**

- ¶ 1 *Held:* Commission's finding that claimant failed to prove by a preponderance of the evidence that his back condition is causally related to his employment with respondent is not against the manifest weight of the evidence given the inconsistencies regarding the history of the injury at issue and the incomplete medical history provided to the two physicians who gave causation opinions.
- ¶ 2 Claimant, Joseph Ekdahl, filed an application for adjustment of claim pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2008)) alleging that he sustained

a compensable injury while working for respondent, Maloney Equipment. Following a hearing held pursuant to section 19(b) of the Act (820 ILCS 305/19(b) (West 2008)), the arbitrator denied benefits, concluding that claimant failed to prove by a preponderance of the evidence that his current condition of ill-being is causally related to his employment. The Illinois Workers' Compensation Commission (Commission) affirmed and adopted the decision of the arbitrator, and the circuit court of Whiteside County confirmed the decision of the Commission. On appeal, claimant contends that the Commission's causation finding is against the manifest weight of the evidence. We affirm.

¶ 3

#### I. BACKGROUND

¶ 4 The following factual recitation is taken from the evidence presented at the arbitration hearing held on September 23, 2010, as well as the record on appeal. Claimant was employed by respondent as a small-engine technician. In this position, claimant serviced various types of equipment, including snow blowers, skid loaders, and utility tractors. On April 27, 2009, claimant was changing a tire on a piece of equipment. Claimant testified that as he was placing the tire back on the rim, the tire "blew up" and struck him on the right side of his face.

¶ 5 After reporting the accident to his supervisor, Sallie Stanley, claimant sought treatment from Dr. Stephen Harrison at Gateway Healthworks. Dr. Harrison's notes reflect that claimant presented with a history of a facial contusion occurring at work. Dr. Harrison's notes also reflect that claimant "mention[ed] some chronic back pain, that is not new." Dr. Harrison's diagnosis was a "[f]acial contusion at work" and "history of back pain." Dr. Harrison provided claimant with "conservative information" regarding the back pain and instructed claimant to follow up as needed. Dr. Harrison authorized claimant to return to work with no restrictions. Claimant returned to work the same day

and completed his shift.

¶ 6 On April 28, 2009, claimant worked most of the day. However, at about 3 p.m., claimant told Stanley that he was experiencing back pain on his left side. That evening, claimant presented to the emergency room at CGH Medical Center, where he reported that he hurt his back on Sunday (April 26, 2009) after picking up a 40-pound bag of soil at home. Claimant indicated that his symptoms worsened after a sudden movement at work on April 27 and that when he woke up on April 28, the pain was much worse. Claimant denied any lower extremity pain, numbness, or weakness. He rated the back pain at level eight on a scale from zero to ten. X rays of the lumbar spine were normal. The emergency room records state that claimant experienced similar pain a few months earlier after he “pulled his back,” but these symptoms resolved with conservative treatment. Claimant was diagnosed with a lumbar sprain, prescribed pain medication and a muscle relaxer, and authorized off work for two days.

¶ 7 Claimant returned to work in May 2009. Stanley testified that after claimant’s return to work, he was able to perform all functions of his position, he did not report any physical complaints, he did not request any type of accommodation, and he did not ask for time off. At the arbitration hearing, claimant acknowledged that he did not report any ongoing back pain to respondent upon his return to work.

¶ 8 The record indicates that claimant did not receive any additional treatment relative to his back until July 15, 2009, when he presented to Morrison Community Hospital. At that time, claimant complained of “lower back pain x 1 month.” Claimant denied any radiation of the pain into his lower extremities or a decreased ability to walk. The hospital’s records later reference a history of

chronic back pain for more than one year, a “pulled back muscle” about one month prior to his appointment, and three visits to a medical clinic over the previous six months. Claimant was diagnosed with chronic lumbar back pain. He was prescribed pain medication, muscle relaxers, and physical therapy. Claimant stated that he did not attend physical therapy because he did not believe that respondent would allow him time off to do so.

¶ 9 Claimant testified that the last day he showed up to work for respondent was August 15, 2009. Two days later, on August 17, 2009, claimant presented to the emergency room at CGH Medical Center, complaining of a “flare up of LBP [low back pain] x few days.” Claimant rated the pain at 5 out of 10. Claimant told the emergency room physician that he “initially ignored it at work in March [or] April this year when a tire blew up.” The physician diagnosed a lumbar strain and prescribed medication. On August 20, 2009, claimant presented to the Whiteside County Health Department complaining of “low-back pain for the last one week.” Claimant later reported that he has had recurrent back pain since the month of April and that his symptoms recently “flared up.” Claimant rated the pain at 8 out of 10. He denied any radiation of the pain or any tingling or numbness in the lower extremities. Claimant was diagnosed with lower thoracic and upper lumbar paraspinal area pain. He was instructed to return on an as-needed basis.

¶ 10 On August 23, 2009, claimant hired an attorney. Claimant testified that he was “let go” from his job on August 29, 2009. In September 2009, claimant filed an application for adjustment of claim. On September 12, 2009, claimant underwent an MRI of the lumbar and thoracic spine at KSB Hospital. On October 16, 2009, claimant was examined by Dr. M. Marc Soriano. Claimant told Dr. Soriano that he was fixing a tire at work when the tire blew up “striking him in the face and causing

him to suffer immediate low back pain.” Claimant related that he went to the emergency room with complaints of facial pain, and, the same day, also began experiencing pain across his low back with intermittent numbness and tingling into the left leg and down to the foot. Claimant stated that since the incident at work in April 2009, he has had chronic left lower back pain with occasional shooting pains and numbness in the left leg. Claimant acknowledged a prior history of low back pain four years earlier, but stated that that pain resolved after two weeks and he had not experienced any problems until the present injury. Dr. Soriano’s examination demonstrated positive straight-leg raising, limping, and severe limitation of range of motion in flexion and extension. Dr. Soriano noted that the MRI taken in September showed an annular tear with collapse and a bilateral disc protrusion at L4-5. Dr. Soriano opined that claimant’s onset of pain is the result of a combination of soft-tissue injury and probable annular tear with disc protrusion. He further opined that the condition is work related since claimant “has had no prior history over the last four years of this kind of problem.” Dr. Soriano recommended an epidural injection. The possibility of lumbar surgery was also discussed if symptoms persisted.

¶ 11 At the request of his attorney, claimant was examined by Dr. Jeffrey Coe on January 5, 2010. Claimant told Dr. Coe that on April 27, 2009, he was at work resealing a tire when the tire blew off the rim and struck him on the right side of his face. Claimant reported that the impact dazed him and “pushed him back,” resulting in the onset of pain in his lower back. Claimant also described two other incidents—an episode of lower back pain four years earlier and a minor strain injury to his lower back while moving a bag of soil at home a few days prior to the accident at work. Claimant told Dr. Coe that the pain resulting from the former incident resolved without ongoing treatment, the need

for work modification, or lost time from work, while the pain from the latter incident resolved without treatment.

¶ 12 Dr. Coe reviewed claimant's medical records and conducted a physical examination. At the time of Dr. Coe's examination, claimant complained of constant pain in both sides of his lower back with radiation into his left leg and occasional tingling of the left lower extremity. Dr. Coe noted a limp favoring claimant's left leg, tender "trigger points" in the left paralumbar musculature, and decreased range of motion of the lumbar spine in flexion, extension, and left lateral bending. In addition, he noted positive left-sided straight-leg raising, mild weakness in claimant's left foot and lower leg, and decreased sensation in claimant's left leg. Dr. Coe concluded that the accident at work aggravated degenerative disc disease and degenerative arthritis in claimant's lumbar spine and caused symptomatic annular tearing and disc protrusion at L4-5 with left lumbar radiculopathy symptoms. He opined that there is a causal relationship between the injury suffered by claimant at work on April 27, 2009, and his current symptoms. Dr. Coe recommended treatment consisting of the epidural injections recommended by Dr. Soriano and physical therapy. Dr. Coe imposed various work restrictions, including lifting, bending, and twisting limitations.

¶ 13 At the arbitration hearing, claimant testified that he underwent two epidural injections, neither of which provided long-term relief. Claimant also testified that he continues to experience numbness in his leg and that he walks with a limp. He stated that he is in constant pain and is seeking additional treatment.

¶ 14 On cross-examination, claimant stated that when he treated with Dr. Harrison on April 27, 2009, it was only for a facial laceration. Claimant also acknowledged that in February 2009, he

pulled a muscle in his back when he slipped on a patch of ice. At that time, claimant rated the pain at 8.5 out of 10. Claimant further testified on cross-examination that in conjunction with a health insurance policy he had through his employment with respondent, he would receive insurance forms from time to time. Claimant identified one such document, a “Group Application for Coverage/Change Form,” that he completed and signed on August 13, 2009. On that form, claimant was asked to specify whether he had ever received treatment for or been diagnosed by a medical professional with certain disorders. Claimant admitted that when he completed the form, he denied having any disorder of the back. Claimant further testified that on August 10, 2009, he completed and signed a form from a different insurer, again denying any back problems.

¶ 15 Stanley confirmed that claimant complained of back pain in February 2009 after slipping on ice. According to Stanley, when claimant showed up for work after the February 2009 incident, he could barely walk and sought medical attention.

¶ 16 Based on the foregoing evidence, the arbitrator determined that claimant failed to sustain his burden of proving by a preponderance of the evidence that his back condition is causally related to the industrial accident of April 27, 2009. The arbitrator did not find claimant credible, citing inconsistencies in claimant’s history of back problems and the “suspect timing of [claimant’s] filing of the Application for Adjustment of Claim shortly after being terminated.” The arbitrator further concluded that claimant omitted a “very relevant prior history of back pain” to Drs. Soriano and Coe. Significantly, the arbitrator noted that while claimant told other treating physicians that he had been experiencing chronic back pain for a year, he did not relate this same history to either Dr. Soriano or Dr. Coe. Finding that the causation opinions of Drs. Soriano and Coe were based on an

incomplete history, the arbitrator deemed them not credible. Finally, the arbitrator cited claimant's ability, following the accident, to return to his full-duty position for months without complaints of or treatment for low back pain.

¶ 17 Upon administrative review, the Commission affirmed and adopted the decision of the arbitrator. The circuit court of Whiteside County confirmed the decision of the Commission. Thereafter, claimant filed the present appeal.

¶ 18 II. ANALYSIS

¶ 19 On appeal, claimant argues that the Commission's finding that he failed to prove by a preponderance of the evidence that his back condition is causally related to his employment is against the manifest weight of the evidence. To prevail on a claim for compensation under the Act, a claimant must prove by a preponderance of the evidence that some act or phase of his employment was a causative factor in his ensuing injuries. *Shafer v. Illinois Workers' Compensation Comm'n*, 2011 IL App (4th) 100505WC, ¶ 38. An accidental injury need not be the sole or principal causative factor as long as it was a causative factor in the resulting condition of ill-being. *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 205 (2003). Whether a causal connection exists between a claimant's condition of ill-being and his employment is a factual issue for the Commission to resolve. *Tower Automotive v. Illinois Workers' Compensation Comm'n*, 407 Ill. App. 3d 427, 434 (2011). In resolving disputed issues of fact, it is the Commission's province to assess the credibility of witnesses, draw reasonable inferences from the evidence, determine the weight to give the testimony, and to resolve conflicts in the evidence. *Shafer*, 2011 IL App (4th) 100505WC, ¶ 35. We review the Commission's factual findings under the manifest-weight-of-the-evidence standard.

*Gross v. Illinois Workers' Compensation Comm'n*, 2011 IL App (4th) 100615WC, ¶ 21. A factual finding is against the manifest weight of the evidence only if the opposite conclusion is clearly apparent. *Dye v. Illinois Workers' Compensation Comm'n*, 2012 IL App (3d) 110907WC, ¶ 10. The relevant inquiry is whether the evidence is sufficient to support the Commission's finding, not whether this court or any other tribunal might reach an opposite conclusion. *Westin Hotel v. Industrial Comm'n*, 372 Ill. App. 3d 527, 538-39 (2007).

¶ 20 Applying this standard, we cannot say that the Commission's finding on causation is against the manifest weight of the evidence. The Commission, in affirming and adopting the decision of the arbitrator, found claimant's testimony not credible, citing inconsistencies in the evidence at trial. The record supports this finding. After claimant filed his application for adjustment of claim, he was examined by Dr. Soriano and Dr. Coe. Claimant told Dr. Soriano that he was injured at work when a tire blew up "striking him in the face and causing him to suffer *immediate* low back pain." (Emphasis added.) Claimant further reported to Dr. Soriano that he sought treatment at the emergency room for complaints of facial pain, and, the same day, also began experiencing pain across his low back with intermittent numbness and tingling into the left leg and down to the foot. Claimant told Dr. Coe that the tire struck him on the right side of the face and "pushed him back," resulting in the onset of pain in his lower back. These histories, however, conflict with the medical records in evidence.

¶ 21 Significantly, when claimant treated with Dr. Harrison shortly after the accident, he related a history of a facial contusion at work. Claimant also mentioned some chronic back pain, but told Dr. Harrison that the back condition was "not new." Claimant again sought treatment the day after

the accident at CGH Hospital. At that time, he reported that he hurt his back on August 26, 2009, the day *before* the accident at work, when he picked a 40-pound bag of soil at home. Claimant also told hospital personnel that his symptoms worsened after a “sudden movement” at work on April 27. However, the hospital records do not reference the accident at issue. Further, contrary to the history he provided Dr. Soriano, claimant denied any lower extremity pain, numbness, or weakness accompanying his back pain. Claimant was prescribed conservative treatment and instructed to remain off work for two days. Thereafter, claimant worked for respondent until August 15, 2009. During this time, claimant did not report any ongoing back pain or physical complaints, he was able to perform all functions of his position, he did not request any accommodations, and he did not ask for any time off. Although claimant did seek treatment at Morrison Hospital on July 15, 2009, he did not reference the injury at work. Instead, he complained of chronic back pain for more than a year and a pulled back muscle one month prior to his visit. Further, shortly before claimant last worked for respondent, he completed two health insurance forms denying any problems with his back.

¶ 22 The Commission also found the causation opinions of Drs. Soriano and Coe not credible on the ground that they were based on an incomplete history provided by claimant. Again, the record supports this finding. Dr. Soriano documented a prior history of low back pain in 2005, which resolved after two weeks and did not recur until the accident on April 27, 2009. Dr. Soriano does not reference the undisputed injuries of February 24, 2009, or April 26, 2009. Dr. Soriano also does not reference the history of chronic back pain that claimant reported to other physicians. Similarly, Dr. Coe did not record an injury to the back occurring in February 24, 2009, or the history of chronic

back pain reported to other medical professionals.

¶ 23 In sum, the Commission could have reasonably concluded that claimant was not credible. Claimant provided inconsistent histories regarding the onset of his back pain after the accident of April 27, 2009; he was able to work full duty without restrictions, accommodations, or physical complaints for 3½ months after the accident; and he denied any back problems on insurance forms completed shortly before he last worked for respondent. Further, it was reasonable for the Commission to find that the causation opinions of Drs. Soriano and Coe were not credible given claimant’s failure to provide them with a complete medical history. Accordingly, we are unable to conclude that the Commission’s finding that claimant failed to establish a causal connection between his back condition and the industrial accident of April 27, 2009, is against the manifest weight of the evidence as an opposite conclusion is not clearly apparent.

¶ 24 Claimant emphasizes that to establish causation he was only required to demonstrate that his accidental injury was “*a* causative factor in the resulting condition of ill-being.” (Emphasis supplied.) We do not disagree with this proposition. See *Sisbro, Inc.*, 207 Ill. 2d at 205. However, given the inconsistencies in the record regarding the onset of back pain after the industrial accident, the incomplete history provided to the two physicians who rendered causation opinions, and claimant’s ability to return to work without incident for approximately 3½ months after the industrial accident, the Commission could have reasonably concluded that claimant failed to carry his burden of establishing that the injury was even *a* causative factor in his current condition of ill-being.

¶ 25

### III. CONCLUSION

¶ 26 For the reasons set forth above, we affirm the judgment of the circuit court of Whiteside

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County, which confirmed the decision of the Commission.

¶ 27 Affirmed.