2011 IL App (2nd) 101232WC-U
No. 2-10-1232WC

Order filed December 21, 2011

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IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

CITY OF AURORA,	)	Appeal from the Circuit Court
Appellant,	)	of Kane County.
	)	
v.	)	No. 10-MR-171
	)	
THE ILLINOIS WORKERS' COMPENSATION	)	Honorable
COMMISSION *et al.* (Lisa Carter, Appellee).	)	Michael J. Colwell,
	)	Judge Presiding.

JUSTICE McCULLOUGH delivered the judgment of the court.
Justices Hoffman, Hudson, Holdridge and Stewart concurred in the judgment.

ORDER

¶ 1 *Held*: The Commission committed no error in finding claimant's work for employer as a patrol officer was causally connected to a left knee injury she sustained when exiting her squad car.

¶ 2 On May 12, 2006, claimant, Lisa Carter, filed an application for adjustment of claim pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq*. (West 2004)), seeking benefits from employer, the City of Aurora. Following a hearing, the arbitrator found claimant sustained left knee injuries that arose out of and in the course of her employment. He awarded claimant (1) 40 weeks' temporary total disability benefits, (2) permanent partial

disability benefits for a 25% loss of use of claimant's left leg, and (3) $140 in medical expenses. The Workers' Compensation Commission (Commission) affirmed and adopted the arbitrator's decision without further comment. The circuit court of Kane County confirmed the Commission. Employer appeals, arguing the Commission erred by finding claimant's employment was causally connected to her accidental injury. We affirm.

¶ 3 The parties are familiar with the evidence presented and we discuss it only to the extent necessary to put their arguments in context. Claimant worked as a police officer for employer for 17 years. She was a patrol officer and was responsible for responding to 911 service calls. On February 8, 2006, claimant sustained an injury to her left knee when she exited her squad car at the beginning of her shift.

¶ 4 On appeal, employer acknowledges that claimant sustained an injury to her left knee when exiting her squad in February 2006, but argues she failed to prove her work for employer was a causative factor in that injury. It maintains that the act of exiting a vehicle is not an inherently dangerous activity and claimant was exposed to no greater risk than that faced by the general public in performing the same activity. Employer also contends that the sole causes of claimant's injury were her weight and a preexisting condition of ill-being in her knee.

¶ 5 "To obtain compensation under the Act, a claimant bears the burden of showing, by a preponderance of the evidence, that he has suffered a disabling injury which arose out of and in the course of his employment." *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 203, 797 N.E.2d 665, 671 (2003). Whether a claimant's injury arises out of and in the course of his or her employment is a question of fact to be decided by the Commission and, on review, its decision will not be overturned unless it is against the manifest weight of the evidence. *Metropolitan Water Reclamation District of Greater Chicago v. Illinois Workers' Compensation Comm'n*, 407 Ill. App. 3d 1010, 1013, 944 N.E.2d 800, 803 (2011). "A finding of fact is

contrary to the manifest weight of the evidence only where an opposite conclusion is clearly apparent." *Metropolitan*, 407 Ill. App. 3d at 1013, 944 N.E.2d at 803. Further, "[t]he appropriate test is whether there is sufficient evidence in the record to support the Commission's finding, not whether this court might have reached the same conclusion." *Metropolitan*, 407 Ill. App. 3d at 1013, 944 N.E.2d at 803.

¶ 6 Generally, an injury arises "in the course of employment" if it occurs within the time and space boundaries of the employment. *Sisbro*, 207 Ill. 2d at 203, 797 N.E.2d at 671. "The 'arising out of' component is primarily concerned with causal connection" and is satisfied when the claimant shows "that the injury had its origin in some risk connected with, or incidental to, the employment so as to create a causal connection between the employment and the accidental injury." *Sisbro*, 207 Ill. 2d at 203, 797 N.E.2d at 672.

¶ 7 Where "the injury results from a hazard to which the employee would have been equally exposed apart from the employment, or a risk personal to the employee, it is not compensable." *Caterpillar Tractor Co. v. Industrial Comm'n*, 129 Ill. 2d 52, 59, 541 N.E.2d 665, 667 (1989). However, an injury does arise out of the claimant's employment if he or she "is exposed to a risk common to the general public *to a greater degree* than other persons." (Emphasis added.) *Caterpillar*, 129 Ill. 2d at 58-59, 541 N.E.2d at 667. "Such an increased risk may be either qualitative, such as some aspect of the employment which contributes to the risk, or quantitative, such as when the employee is exposed to a common risk more frequently than the general public." *Metropolitan*, 407 Ill. App. 3d at 1014, 944 N.E.2d at 804.

¶ 8 Here, the Commission found a causal connection existed between claimant's employment and her knee injury and the record contains sufficient support for its decision. The record shows claimant's job duties required that she get in and out of her squad car approximately 40 times during each of her shifts. By comparison, she got in and out of her family car

only a handful of times each day. Also, as part of her police uniform, claimant was required to wear a protective vest and a gun belt. The gun belt weighed approximately 30 pounds and was laden objects that were necessary in the performance of her job duties. Claimant testified that it was more difficult for her to get in and out of her squad car while dressed in her police uniform than it was for her to get in and out of her family vehicle while dressed in her regular clothing. She described having "to twist and turn and try to get out at the same time" when exiting her squad car. Claimant asserted there was "not so much movement getting in and out of [her family] car." The arbitrator, who had the opportunity to observe claimant in her police uniform, noted as follows:

> "The Arbitrator observed [claimant's] protective bullet proof vest which appeared bulky and stiff. The Arbitrator also observed [claimant's] gun belt with accessories which appeared to be quite heavy. In addition, [claimant] testified that the gun belt weighs approximately 30 pounds as it includes her service weapon, holster, additional magazines of bullets, night stick, handcuffs, several leather pockets for small items[,] and a rather large communications radio. The belt itself is thick leather approximately two inches wide."

¶ 9 The arbitrator found it clear, based on claimant's testimony and his own observations, that claimant's protective vest, gun belt, and accessories "would make getting in and out of a squad car substantially different than an ordinary person in street clothes getting in and out of a personal vehicle." Further, he found it was "reasonable to conclude that getting in and out of a squad car [40] times a day wearing a 30 pound gun belt with accessories and a protective vest substantially increase[d] [claimant's] risk of injury." As stated, the Commission affirmed and

adopted the arbitrator's decision.

¶ 10 Although Dr. J.S. Player, who examined claimant at employer's request, determined claimant's uniform, and her gun belt in particular, did not contribute to her knee injury, the record contains only his bare statement without any supporting rationale. In particular, the record does not show Dr. Player was aware of the weight of claimant's gun belt or the accessories she was required to carry. His reports do not contain a description of claimant's police uniform and also do not show that he had the opportunity to view claimant in her uniform as did the arbitrator. Given these facts, the Commission's decision that claimant was exposed to a risk of injury greater than the general public was not against the manifest weight of the evidence.

¶ 11 Further, claimant's testimony and opinions from her treating doctors support the existence of a causal connection between her employment and her accidental injury. At arbitration, claimant testified that, when exiting her squad car, she had "to twist and move" because of the gear she was wearing. She stated that, as she put her left foot down, she heard a pop and felt extreme pain. Claimant denied problems with her left knee prior to the accident date and had not previously received medical treatment for her knee. Dr. Richard Angell opined that claimant's injury was "a traumatic aggravation of the chondromalacia or traumatic chondromalacia." Dr. Brian Cole opined claimant's condition was work related "based on the mechanism of injury and absence of pre-existing symptoms prior to *** when she twisted her knee getting out of the squad car."

¶ 12 Employer argues that the evidence presented fails to support the existence of a twisting injury. It contends claimant provided accident histories to her medical providers, showing only that she placed weight on her left leg and felt pain. However, the histories employer points to are not necessarily inconsistent with claimant's testimony at arbitration, only less descriptive. The histories are notations made in claimant's medical records and do not

appear to be direct quotations from claimant or a full recounting of the incident at issue. Moreover, as discussed, claimant's medical records are not completely devoid of a reference to a twisting injury as Dr. Cole noted claimant "twisted her knee" when exiting her squad car.

¶ 13 Only Dr. Player found no causal link between claimant's employment and her accidental injury. However, it was the Commission's responsibility to weigh the conflicting evidence, particularly the medical evidence. The Commission affirmed and adopted the arbitrator's decision without further comment. As discussed, the arbitrator had the opportunity to observe claimant in her full uniform and relied on his own observations, claimant's testimony, and medical opinions and evidence other than those from Dr. Player. The Commission's finding of a causal connection between claimant's employment and her accidental injury was not against the manifest weight of the evidence.

¶ 14 For the reasons stated, we affirm the circuit court's judgment.

¶ 15 Affirmed.