ILLINOIS OFFICIAL REPORTS

Appellate Court

***Shafer v. Illinois Workers' Compensation Comm'n*, 2011 IL App (4th) 100505WC**

Appellate Court Caption	AMY SHAFER, Appellant and Cross-Appellee, v. THE ILLINOIS WORKERS' COMPENSATION COMMISSION *et al.* (Bill Doran Company, Appellee and Cross-Appellant).
District & No.	Fourth District Docket Nos. 4-10-0505WC, 4-10-0506WC, 4-10-0507WC cons.
Argued	September 13, 2011
Filed	October 28, 2011
Rehearing denied	December 29, 2011
Held (*Note: This syllabus constitutes no part of the opinion of the court but has been prepared by the Reporter of Decisions for the convenience of the reader.*)	The back and neck injuries claimant suffered while working for a supplier to the floral industry were properly found to have arisen out of and in the course of her employment, but the Workers' Compensation Commission's reduction of the temporary total disability benefits awarded by the arbitrator was reversed where the evidence supported the award of those benefits for the entire period they were awarded by the arbitrator, and, furthermore, the Commission's finding that claimant's medical treatments performed and the prospective treatments recommended were reasonable and necessary was not against the manifest weight of the evidence.
Decision Under Review	Appeal from the Circuit Court of Sangamon County, Nos. 09-MR-815, 09-MR-816, 09-MR-830; the Hon. Leslie J. Graves, Judge, presiding.
Judgment	Affirmed in part and reversed in part; cause remanded.

Counsel on Appeal

John V. Boshardy and Andrew Ricci (argued), both of John V. Boshardy & Associates, P.C., of Springfield, for appellant.

Karen L. Kendall and Brad A. Elward (argued), both of Heyl, Royster, Voelker & Allen, of Peoria, and John O. Langfelder and Daniel R. Simmons, both of Heyl, Royster, Voelker & Allen, of Springfield, for appellee.

Panel

JUSTICE HOLDRIDGE delivered the judgment of the court, with opinion.

Presiding Justice McCullough and Justices Hoffman, Hudson, and Stewart concurred in the judgment and opinion.

OPINION

¶ 1 The claimant, Amy Shafer, filed an application for adjustment of claim under the Workers' Compensation Act (the Act) (820 ILCS 305/1 *et seq.* (West 2008)) seeking benefits for injuries she claimed to have sustained in two separate accidents while working as an employee of appellee and cross-appellant Bill Doran Company (employer). Following a hearing, an arbitrator issued two separate decisions under two separate case numbers, one for each work-related accident alleged by the claimant. The arbitrator found that all of the claimant's injuries arose out and in the course of her employment and awarded temporary total disability (TTD) benefits, incurred medical expenses, and prospective medical treatment recommended by the claimant's doctors.

¶ 2 The employer appealed the arbitrator's decisions to the Illinois Workers' Compensation Commission (the Commission). The Commission modified the arbitrator's decision in one of the cases (case number 07-WC-56127) by reducing the period of temporary total disability and by noting that the Act's medical fee schedule applies to the award of medical expenses. The Commission affirmed the arbitrator's decision in all other respects and adopted the arbitrator's decision as modified. Commissioner Dauphin dissented from the Commission's decision because she believed that the employer's use of an improper case number in its petition for review deprived the Commission of jurisdiction over the employer's appeal of that case. The Commission modified the arbitrator's decision in the other case (case number 07-WC-56125) to reflect that the fee schedule applied and unanimously affirmed the arbitrator's decision as modified.

¶ 3 The claimant sought judicial review of the Commission's decision regarding case number 07-WC-56127 in the circuit court of Sangamon County. The employer sought judicial review of the Commission's decisions in both cases. The employer also argued that the Commission's award of TTD benefits, medical expenses, and prospective medical treatments was against the manifest weight of the evidence. The circuit court affirmed the

Commission's decision "as to all issues and in all respects." This appeal followed.

¶ 4 FACTS

¶ 5 The employer delivers flowers and supplies to retailers in the floral industry. The claimant worked for the employer as a supply salesperson. Her job duties included making sales calls to customers, retrieving ordered items from the warehouse, packaging orders, and preparing packages for shipment.

¶ 6 During the arbitration hearing, the claimant testified that, on November 23, 2007, she worked in the warehouse all day moving heavy glassware. When she was at home later that evening, she felt a muscle tighten on her lower left side. On November 27, 2007, she went to see her family doctor, Dr. Michael Bova. Dr. Bova diagnosed the claimant as having a sprain of her lower lumbar region and left radicular pain. Dr. Bova prescribed medications and placed the claimant on light duty for one week. The claimant testified that she presented Dr. Bova's light duty work slip to her manager, but her manager did not change her work duties. Over the next few days, the claimant continued to work even though she was experiencing pain and cramps on the left side of her lower back.

¶ 7 The claimant testified that she suffered a second injury at work on November 30, 2007. On that day, she was loading a case of glassware into a metal pushcart. In order to get the glassware into the cart, she had to bend over and turn her body from the right to the left. While she was doing this, she heard a "pop" in her lower back. She told a coworker that she was hurt, and he went to get the manager. The claimant testified that she told her manager that she was "severely hurt," but her manager walked away and did nothing.

¶ 8 Later that day, the claimant prepared and filed a written incident report which stated that she was injured on November 30, 2007, while "lifting a box of glassware/pulling orders." The report described the claimant's injury as a "[p]ulled back muscle." It also noted that the claimant was on light duty at the time of the injury. The following Monday, a woman from the employer's corporate office called the claimant and told her that she needed to file a separate incident report for the November 23, 2007, injury, which the claimant did. On that report, the claimant described her November 23 injury as a lower back injury. The claimant did not ask her supervisor to sign either of the incident reports. The claimant was terminated prior to the start of her shift on December 5, 2007.

¶ 9 After her second injury on November 30, 2007, the claimant claimed that she had severe pain in her lower back, cramping pain in her neck, severe tingling pain in her legs, and tingling pain in her arms. During the next several days, her neck pain progressed from a "kink" to "real stiffness." By the morning of December 5, she was unable to turn her head to the right. Two days later, she awoke with a stiff and painful neck. The claimant testified that she did not have any injury at home during this time period, and she attributed all of her pain to her November 30 work accident.

¶ 10 The claimant returned to Dr. Bova on December 10, 2007. Dr. Bova's record of that visit reflects that the claimant told him that she had twisted her back again while on light duty and that "something popped in [her] back." Dr. Bova diagnosed the claimant with spasms in her upper and lower back and tingling pain radiating into her hands and left leg, and he ordered

the claimant off work. Dr. Bova ordered X-rays and an MRI of the claimant's cervical and lumbar spine. The claimant underwent an MRI of her cervical spine on December 11, 2007, which revealed a right-sided C5-C6 disc herniation. A lumbar MRI performed on the same date showed a small right-sided disc herniation at L3-L4 and a posterior herniation at L4-L5.

¶ 11 Dr. Bova placed the claimant off work from December 10, 2007, through December 16, 2007. On December 13, 2007, Dr. Bova issued the claimant an off-work slip putting her off work until further notice due to back and neck injuries. On December 18, 2007, the claimant returned to Dr. Bova and asked him for a light duty work slip so she could apply for unemployment benefits. Dr. Bova issued her a return to work slip requiring her to refrain from lifting anything over 10 pounds. Dr. Bova prescribed additional pain medication on December 27, 2007, and referred the claimant to anesthesiologist Dr. Babu Prasad. On January 14, 2008, the claimant returned to Dr. Bova and asked to be taken off work. Dr. Bova placed her off work from January 11, 2008, through February 1, 2008. The claimant visited Dr. Bova again on January 29, 2008, at which time Dr. Bova continued her off work until February 29, 2008.

¶ 12 Dr. Prasad gave the claimant lower lumbar epidural steroid injections on January 22, 2008. He also referred the claimant to neurologist Dr. Joshua Warach for an EMG.

¶ 13 Dr. Warach met with the claimant on January 23, 2008, for a neurologic consultation. He drafted a letter to Dr. Prasad that same day summarizing his impressions and recommendations. The letter indicates that the claimant told Dr. Warach that she had injured herself at work on November 23, 2007, and November 29, 2007,[1] and that "[s]ince then she has experienced persistent constant aching and sharp pain, variable in intensity, in the low back with radiation down the entire left leg," "persistent intermittent tingling" in both legs, and "intermittent numbness and tingling of both hands with constant coldness of the hands and feet." Dr. Warach also noted that "[t]he patient also gives a history of onset upon awakening from sleep 12/5/07, without any other injury, of stiffness in the posterior cervical region of her neck," and that "[s]ince then [the claimant] has experienced persistent and constant aching and sharp pain, variable in intensity, in the posterior cervical region of her neck with radiations into both shoulders and scapulae." Dr. Warach's letter also notes that the claimant "denies any previous history of relevant neurologic symptoms prior to onset of the above." Dr. Warach diagnosed the claimant as having pain in her neck, arms, lower back, and legs. He recommended follow-up X-rays and EMG/NVC testing of the lower extremities and prescribed physical therapy.

¶ 14 The claimant returned to Dr. Bova on January 29, 2008. Dr. Bova's notes reflect that the claimant was limited in her range of motion and could not bend over or climb stairs. The claimant had physical therapy sessions on January 30, 2008, February 1, 2008, and February 4, 2008. Dr. Prasad gave the claimant another epidural steroid injection in her lower back on February 5, 2008.

¶ 15 John Hovey, the claimant's live-in boyfriend, also testified at the arbitration hearing.

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[1] The claimant testified that she inadvertently told Dr. Warach that the second injury occurred on November 29 instead of November 30.

Hovey testified that the claimant had been in continual pain since her injuries and that she had difficulty standing, sitting, walking, and turning her head. Hovey stated that, before her injuries, the claimant did the laundry and dishes and cleaned the house but that Hovey now had to do all of the household chores. He also claimed that he had to help the claimant get in and out of bed and get up from the couch or a chair.

¶ 16 Chris Strong, the claimant's manager, testified for the employer. Strong testified that the employer has a procedure in place for reporting work-related injuries and accidents. That procedure required that any injury or accident must be reported to Strong. Strong testified that she fills out an incident report during a one-on-one discussion with the injured employee and signs the report upon completion. Strong stated that she had no notice from the claimant of any work-related accident and she did not help the claimant prepare or sign any incident report regarding any such accident.

¶ 17 Strong also testified that the claimant arrived late to work on November 26, 2007, and told Strong that she woke up with a sore back because she had been sleeping on a saggy bed. Although Strong admitted that the claimant gave her a note from Dr. Bova the next day limiting the claimant to light duty for one week, Strong claimed that there was never any indication that the claimant's back pain was work-related. Strong testified that she asked the claimant several times whether her back injury was work-related, and the claimant said "no." Strong claimed that the first time she was made aware of any work-related accident was on December 7, 2007 (two days after the claimant was terminated for cause), when the claimant's November 30, 2007, incident reports were first brought to Strong's attention. Strong testified that the claimant worked her regular shifts from November 19, 2007, through December 4, 2007.

¶ 18 The claimant filed two separate applications for adjustment of claim against the employer. Her claims were given separate case numbers for arbitration. Case number 07-WC-56125 addressed the November 23, 2007, work accident, and case number 07-WC-56127 addressed the November 30, 2007, work accident. Although the cases were not consolidated, they were heard together during the February 8, 2008, arbitration proceedings and the evidence for both cases was presented in one report of proceeding.

¶ 19 On April 10, 2008, the arbitrator issued two separate decisions. As to case number 07-WC-56125, the arbitrator found that the claimant suffered a work-related injury on November 23, 2007. Moreover, based on a "chain of events" analysis, the arbitrator found that the claimant's lumbar pain and radiating pain down her left leg were causally related to the November 23, 2007, work accident. The arbitrator found the claimant's testimony credible and relied on her testimony and Dr. Bova's medical records in finding causation. The arbitrator also found that the claimant's treatment with Dr. Bova on November 27, 2007, was "supported by the medical records" and ordered the employer to pay $85 in medical expenses for that treatment.

¶ 20 As to case number 07-WC-56127, the arbitrator found that the claimant suffered a work-related accident on November 30, 2007. The arbitrator based this finding largely on the claimant's testimony, which the arbitrator found credible. Moreover, based upon the claimant's testimony, Hovey's testimony, and the medical records of Drs. Bova, Prasad, and

Warach, the arbitrator found that the claimant's November 30 accident "aggravated the prior lumbar injury of November 23, 2007, and further caused lumbar disc herniations at L3-L4 and L4-L5 with radiating pain down her left leg, and cervical disc herniations at C5-C6 with radiation pain down both arms and hands." The arbitrator also found that the claimant's treatment with Dr. Bova, Dr. Prasad, Dr. Warach, Springfield MRI, and Radiological Associates of Decatur was supported by the medical records and ordered the employer to pay $9,446 in medical expenses. The arbitrator also awarded the claimant TTD benefits from December 10, 2007, through February 8, 2008 (the date of arbitration). Finally, the arbitrator found that the prospective medical treatment recommended by Drs. Bova, Prasad, and Warach was reasonable and ordered the employer to approve further medical treatment for the claimant, including, but not limited to, additional epidural steroid injections for her lower lumbar and cervical spine, EMG/NCV tests of the claimant's upper and lower extremities, and further consultation and treatment with an orthopedic surgeon to whom Dr. Bova had referred the claimant.

¶ 21 On May 23, 2008, the employer filed a single petition for review of the arbitration decision with the Commission, challenging the arbitrator's findings on accident and causation and the arbitrator's award of TTD benefits, medical expenses, and prospective medical care. The petition was captioned "Amy Shafer, Employee/Petitioner v. Bill Doran Company, Employer/Respondent." It indicated that the employer was seeking review of the arbitrator's decisions in two cases which were issued on April 10, 2008. The petition correctly identified one of these cases as case number 07-WC-56125. However, it incorrectly identified the second case number as 07-WC-46127, instead of 07-WC-56127. On the copy filed with the Commission, there was a handwritten note underneath the incorrect case number stating "# wrong." The Commission issued a notice of return date on review bearing the correct case numbers, and the correct case numbers were also listed on the transcript receipt form. Both parties subsequently filed their statements of exceptions bearing the correct case numbers and the Commission issued a notice of oral argument containing the correct numbers.

¶ 22 The claimant did not object to the employer's petition for review on the ground that it contained an incorrect case number. Nevertheless, just prior to oral argument, the Commission raised the issue *sua sponte* and told the parties to be ready to discuss whether the Commission had jurisdiction over case number 07-WC-56127 in light of the incorrectly numbered petition for review.

¶ 23 After further briefing and arguments, the Commission concluded that it had jurisdiction over case number 07-WC-56127. The Commission found that the error in the employer's petition "amount[ed] to a clerical typographical error" which did not deprive it of jurisdiction. In addition, the Commission found that the employer had "substantially complied with the applicable statute and rules governing review proceedings before the Commission" and cited cases ruling that a reviewing court's jurisdiction can be based on substantial compliance.

¶ 24 Commissioner Dauphin dissented. Citing *ESG Watts, Inc. v. Pollution Control Board*, 191 Ill. 2d 26, 32 (2000), which mandates the "strict construction" of petitions for administrative review, Commissioner Dauphin concluded that "strict compliance with the

Act and the Rules is required to enable the Commission to exercise jurisdiction on review." She noted that the cases cited by the Commission involved errors committed in the course of filing an appeal in the circuit court, rather than errors committed in petitions for review before the Commission. Commissioner Dauphin found this distinction important because "unlike the circuit court, the Commission lacks the broad inherent powers of a court of general jurisdiction."

¶ 25 Addressing the merits of the employer's petition in case number 07-WC-56127, the Commission affirmed and adopted the arbitrator's findings on accident, causation, and prospective medical care. However, the Commission modified the arbitrator's decision with respect to the issues of TTD benefits and medical expenses. Specifically, the Commission concluded that the arbitrator's finding that the claimant was temporarily totally disabled from December 18, 2007 (the date the claimant returned to Dr. Bova and was released to work with a lifting restriction), and January 10, 2008 (the day before the claimant was again taken completely off work by Dr. Bova), was not supported by the record. Accordingly, the Commission found that the claimant was temporarily totally disabled from December 10, 2007, through December 17, 2007, and from January 11, 2008, through February 8, 2008 (the date of arbitration), and it awarded her TTD benefits for those time periods only. With respect to medical expenses, the Commission modified the arbitrator's award to reflect that the Act's Medical Fee Schedule applied.

¶ 26 In case number 07-WC-56125, the Commission affirmed and adopted the arbitrator's findings on accident, causation, and prospective medical care. With respect to medical expenses, the Commission modified the arbitrator's award to reflect that the fee schedule applied.

¶ 27 The claimant filed a complaint on administrative review in the circuit court of Sangamon County, arguing that the Commission had erred as a matter of law in asserting jurisdiction over case number 07-WC-56127 and asking the court to reverse the Commission's decision in that case and to "reinstate the arbitrator's decision on all issues." The employer also appealed various other aspects of the Commission's decision. The circuit court affirmed the Commission's decision "as to all issues and in all respects." This appeal followed.

¶ 28 ANALYSIS

¶ 29 A. The Commission's Jurisdiction Over Case Number 07-WC-56127

¶ 30 The claimant argues that the Commission erred as a matter of law when it found that it had jurisdiction to address the employer's petition for review of case number 07-WC-56127. The claimant maintains that, because the employer did not include the correct case number on its petition for review, no timely appeal of the arbitrator's decision in that case was filed with the Commission, and the Commission therefore lacked jurisdiction to address the appeal.

¶ 31 We disagree. The employer's petition for review, which was timely filed, made clear that the employer was asking the Commission to review two decisions issued by the arbitrator on April 10, 2008, in the case of "*Amy Shafer v. Bill Doran Company et al.*" The petition correctly identified the case number for one of those decisions, and, in what can only be

described as a clerical, typographical error, inadvertently typed one incorrect digit in the second case number. Despite the clerical error, the Commission recognized that the employer intended to appeal the arbitrator's decision in case number 07-WC-56127, and it issued a notice of return date on review and a notice of oral argument bearing that case number. The parties' briefs bore both of the correct case numbers. Thus, from the time the petition was filed, both the parties and the Commission acted as if case number 07-WC-56127 was properly before the Commission for review. The claimant has cited no case (nor have we found any) suggesting that a clerical error in a timely and otherwise properly drafted petition for review strips the Commission of jurisdiction to hear the petition, particularly where, as here, the petition adequately notifies the opposing party and the Commission regarding which case is being appealed. Such a rule would improperly elevate form over substance. *Cf. McDuffee v. Industrial Comm'n*, 222 Ill. App. 3d 105, 111 (1991) (rejecting respondent's argument that the claimant's appeal of a corrected decision that the Commission issued after the claimant had filed a petition for recall was untimely because the claimant identified the wrong case number in the caption of the petition for recall, where the claimant used the correct number in the body of the petition).

¶ 32 It is true that "[t]he power of the Commission to review an award comes from the Act itself, which creates the Commission's authority and fixes the time when such authority must be exercised," and that "[t]he Commission, as an administrative, nonjudicial body, has no presumption in favor of jurisdiction." *Eschbaugh v. Industrial Comm'n*, 286 Ill. App. 3d 963, 967 (1996). Thus, as the claimant notes, a party seeking review before the Commission must strictly comply with the statute conferring jurisdiction upon the Commission. However, these principles, while important, do not support the claimant's argument in this case. Section 19(b) of the Act, which governs petitions for review filed in the Commission, does not prescribe any specific requirements regarding the form of petitions for review. See 820 ILCS 305/19(b) (West 2008). It merely requires that petitions for review be filed within 30 days and that they "contain a statement of the petitioning party's specific exceptions to the decision of the arbitrator." *Id.* The Act imposes no other requirement as to the content of such petitions. The Commission's rule addressing the content of petitions for review tracks the Act's requirements and imposes no additional requirements regarding the form or content of such petitions. See 50 Ill. Adm. Code 7040.10(a) (2011). Because the employer's petition was filed within the statutory deadline and contained a statement of the employer's specific exceptions to the Commission's decisions in both cases, it complied with the Act's requirements notwithstanding the typographical error in one of the case numbers. Accordingly, the Commission's finding that it had jurisdiction over the employer's appeal in case number 07-WC-56127 was neither contrary to law nor unreasonable.[2] Moreover, we

[2]The cases cited by the claimant do not require a different result because they all involve the petitioner's failure to comply with a specific, express statutory requirement for review. See, *e.g.*, *Taylor v. Industrial Comm'n*, 221 Ill. App. 3d 701 (1991) (appellant failed to file any written request to commence judicial review, as required by section 19(f) of the Act); *Eschbaugh*, 286 Ill. App. 3d at 967 (claimant failed to file a timely petition for review of an award under section 19(h) of the Act); *ESG Watts, Inc.*, 191 Ill. 2d at 30-32 (appellant failed to name all parties of record in its

note that it would be particularly inappropriate to reverse the Commission's finding given the deference that we generally accord to the Commission's interpretation of its own rules. See, *e.g.*, *TTC Illinois, Inc./Tom Via Trucking v. Illinois Workers' Compensation Comm'n*, 396 Ill. App. 3d 344, 354 (2009).

¶ 33 B. The Occurrence of Work-Related Accidents

¶ 34 In its cross-appeal, the employer also argues that the Commission's findings that the claimant suffered work-related accidents on November 23, 2007, and November 30, 2007, were against the manifest weight of the evidence.

¶ 35 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); *Edward Don Co. v. Industrial Comm'n*, 344 Ill. App. 3d 643, 654 (2003). 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. The Commission's determination on a question of fact will not be disturbed on review unless it is against the manifest weight of the evidence. *Edward Don*, 344 Ill. App. 3d at 654. For a finding of fact to be contrary to the manifest weight of the evidence, an opposite conclusion must be clearly apparent. *Caterpillar, Inc. v. Industrial Comm'n*, 228 Ill. App. 3d 288, 291 (1992). A claimant's testimony, standing alone, may support an award where all of the facts and circumstances do not preponderate in favor of the opposite conclusion. *Seiber v. Industrial Comm'n*, 82 Ill. 2d 87, 97 (1980); see also *Edward Don*, 344 Ill. App. 3d at 654 (ruling that a claimant's unrebutted testimony that he injured himself while performing his work duties is sufficient to support a finding that claimant sustained accidental injuries during work).

¶ 36 In this case, the Commission found the claimant's testimony that she suffered work-related injuries on November 23, 2007, and November 30, 2007, to be credible. Although there were discrepancies in certain aspects of the claimant's testimony, the claimant provided a consistent history of her injuries to her medical providers. Moreover, although Strong's testimony contradicted the claimant's testimony, the Commission credited the claimant's testimony over Strong's and resolved the conflicts in the evidence in favor of the claimant. We cannot say that the Commission's credibility determinations or its factual findings that work-related accidents occurred were against the manifest weight of the evidence.

¶ 37 C. Causation

¶ 38 In its cross-appeal, the employer also argues that the Commission's finding that the claimant's neck condition is causally related to her work accidents is against the manifest weight of the evidence. To obtain compensation under the Act, a claimant must prove that

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petition for judicial review of Illinois Pollution Control Board's decision as required by a governing statutory provision and supreme court rule).

some act or phase of his employment was a causative factor in his ensuing injuries. *Land & Lakes Co. v. Industrial Comm'n*, 359 Ill. App. 3d 582, 592 (2005). 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*, 207 Ill. 2d at 205. In resolving disputed issues of fact, including issues related to causation, it is the Commission's province to assess the credibility of witnesses, draw reasonable inferences from the evidence, determine what weight to give testimony, and resolve conflicts in the evidence. *Hosteny v. Illinois Workers' Compensation Comm'n*, 397 Ill. App. 3d 665, 675 (2009); *Fickas v. Industrial Comm'n*, 308 Ill. App. 3d 1037, 1041 (1999). We will overturn the Commission's causation finding only when it is against the manifest weight of the evidence. A factual finding is against the manifest weight of the evidence if the opposite conclusion is "clearly apparent." *Swartz v. Industrial Comm'n*, 359 Ill. App. 3d 1083, 1086 (2005). The test 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. *Pietrzak v. Industrial Comm'n*, 329 Ill. App. 3d at 828, 833 (2002).

¶ 39 Applying this standard, we cannot say that the Commission's conclusion that claimant's neck condition is causally connected to her November 23, 2007, and November 30, 2007, work accidents was against the manifest weight of the evidence. "A chain of events which demonstrates a previous condition of good health, an accident, and a subsequent injury resulting in disability may be sufficient circumstantial evidence to prove a causal nexus between the accident and the employee's injury." *International Harvester v. Industrial Comm'n*, 93 Ill. 2d 59, 63-64 (1982). Here, the claimant testified that she had severe pain in her lower back, a cramping pain in her neck, and other symptoms in the days following her second accident. She stated that her neck pain quickly progressed and became severe. She testified that she did not have any injury at home after her work-related accidents, and she attributed all of her pain to her November 30 work accident. The claimant told Dr. Warach that she had no back or neck pain prior to her work accidents. The Commission found the claimant's testimony credible. Accordingly, the claimant's testimony, standing alone, provided a "chain of events" that was sufficient to establish causation.

¶ 40 Moreover, the claimant's testimony was bolstered by the medical records and by Hovey's testimony. An MRI taken 11 days after the claimant's second work accident showed disc herniations in the claimant's lumbar and cervical spine. The employer has provided no medical testimony suggesting that these back and neck injuries could have been caused by anything other than the work-related accidents. In addition, Hovey bolstered the claimant's claim that she was able to do household chores and perform other activities of daily life before, but not after, her work accidents. He also testified that the claimant had difficulty turning her head after her work-related accidents.

¶ 41 The employer argues that the November 30, 2007, incident reports indicate that the claimant injured her back in both of the work accidents, not her neck or any other part of her body. Moreover, the employer argues that the history that the claimant subsequently gave to Dr. Warach suggests that her neck injury arose independently on December 5, 2007, approximately a week after her second work accident. However, the claimant's testimony and the medical records (including Dr. Warach's account of the history the claimant gave him) establish that the claimant developed neck pain and stiffness within days after the

November 30, 2007, work accident and that she did not have any intervening injuries after that accident.

¶ 42 Accordingly, we conclude that the Commission's finding of a causal relationship between the claimant's work-related accidents and her current condition of ill-being (including her neck condition and all of her other injuries) is not against the manifest weight of the evidence.

¶ 43 D. TTD Benefits

¶ 44 The claimant argues that the Commission's decision to reduce the TTD benefits awarded by the arbitrator was against the manifest weight of the evidence. In its cross-appeal, the employer argues that the Commission should not have awarded any TTD benefits. In the alternative, the employer argues that the Commission's decision to reduce the TTD benefits awarded by the arbitrator should be upheld.

¶ 45 A claimant is temporarily and totally disabled from the time an injury incapacitates him from work until such time as he is as far recovered or restored as the permanent character of her injury will permit. *Archer Daniels Midland Co. v. Industrial Comm'n*, 138 Ill. 2d 107 (1990). To be entitled to TTD benefits, it is a claimant's burden to prove not only that he did not work, but also that he was unable to work. *Interstate Scaffolding, Inc. v. Illinois Workers' Compensation Comm'n*, 236 Ill. 2d 132, 148 (2010); *Westin Hotel v. Industrial Comm'n*, 372 Ill. App. 3d 527, 542-43 (2007). The determination of whether claimant was unable to work and the period of time during which a claimant is temporarily and totally disabled are questions of fact to be determined by the Commission, and the Commission's resolution of these issues will not be disturbed on appeal unless it is against the manifest weight of the evidence. *Archer Daniels Midland*, 138 Ill. 2d at 119-20; *Pietrzak v. Industrial Comm'n*, 329 Ill. App. 3d 828, 832-33 (2002).

¶ 46 In this case, Dr. Bova placed the claimant off work from December 10, 2007, through December 17, 2007, and from January 11, 2008, through February 29, 2008. The Commission concluded that the claimant was temporarily totally disabled during those time periods and awarded TTD benefits accordingly. There was ample evidence to support the Commission's conclusion on this issue. Dr. Bova's decision to take the claimant off work for those dates, standing alone, provides sufficient support for the Commission's decision. See, *e.g.*, *Pietrzak*, 329 Ill. App. 3d at 832-33. Moreover, the medical records further confirm that the claimant was experiencing severe pain and other symptoms during those time periods that limited her mobility. On December 10, 2007, Dr. Bova diagnosed the claimant with spasms in her upper and lower back and tingling pain radiating into her hands and left leg. An MRI taken the following day revealed disc herniations in the claimant's cervical and lumbar spine. On January 23, 2008, Dr. Warach diagnosed the claimant as having pain in her neck, arms, lower back, and legs. On January 29, 2008, Dr. Bova's notes reflect that the claimant was limited in her range of motion and could not bend over or climb stairs. At the February 8, 2008, arbitration hearing, the claimant's boyfriend testified that the claimant had been in continual pain since her injuries and that she had difficulty standing, sitting, walking, and turning her head. Hovey also testified that he had to help the claimant get in and out of

bed and get up from the couch or a chair. Accordingly, the Commission's conclusion that the claimant was temporarily totally disabled and entitled to TTD benefits from December 10, 2007, through December 17, 2007, and from January 11, 2008, through February 8, 2008 (the date of arbitration), was not against the manifest weight of the evidence.

¶ 47 However, the Commission also found that the arbitrator's finding that the claimant was temporarily totally disabled from December 18, 2007, through January 10, 2008, was "not supported by the record" because "Dr. Bova had released [the claimant] to light duty work on December 18, 2007, and [the claimant] candidly admitted that she applied for unemployment [benefits]." The Commission therefore concluded that the claimant was "capable of working" from December 18, 2007, through January 10, 2008, "albeit light duty." From this, the Commission concluded that the claimant was not entitled to TTD benefits during that period. That conclusion was contrary to law. "[T]he fact that the employee *** has the ability to do light work does not necessarily preclude a finding of temporary total disability." *Whitney Productions, Inc. v. Industrial Comm'n*, 274 Ill. App. 3d 28, 31 (1995); see also *Sun Choi v. Industrial Comm'n*, 182 Ill. 2d 387, 394 (1998); *Schmidgall v. Industrial Comm'n*, 268 Ill. App. 3d 845, 849 (1994). " 'Total disability,' as that term is used in the Act, does not mean total physical and mental incapacity." *Sun Choi*, 182 Ill. 2d at 393; *Archer Daniels Midland*, 138 Ill. 2d at 120. "Rather, an employee is considered totally disabled when, because of a work-related injury, he or she is able only to perform services which are so limited in quality, dependability, or quantity that a reasonably stable labor market for them does not exist." (Internal quotation marks omitted.) *Sun Choi*, 182 Ill. 2d at 393. Thus, the fact that an employee can do some light duty work or other useful tasks does not mean that she is ineligible to receive TTD benefits. *Id.* at 393-94. Moreover, the fact that an employee applies for or receives unemployment compensation does not preclude or diminish her eligibility to receive TTD benefits. *Crow's Hybrid Corn Co. v. Industrial Comm'n*, 72 Ill. 2d 168, 178-79 (1978); see also *Schmidgall*, 268 Ill. App. 3d at 849 ("temporary total disability benefits are not precluded or even reduced by collecting unemployment compensation benefits"). Thus, the Commission's reduction of TTD benefits was based on an erroneous legal premise.

¶ 48 There is no evidence in the record suggesting that the claimant was able to do more than light duty work from December 18, 2007, through January 10, 2008. In fact, as noted above, the claimant's testimony and the medical records establish that the claimant was in a great deal of pain and severely limited in her physical activities during that time period. Accordingly, we find that the Commission's refusal to award the claimant TTD benefits for that time period was against the manifest weight of the evidence. We therefore reverse that aspect of the Commission's decision.

¶ 49 E. Medical Expenses

¶ 50 In its cross-appeal, the employer argues that the Commission's award of incurred medical expenses and prospective medical treatment was contrary to law and against the manifest weight of the evidence. First, the employer argues that the Commission erred in affirming the arbitrator's admission of the claimant's unpaid medical bills over the employer's

objection because the claimant failed to lay a proper foundation for the admission of such medical bills. Relying on *Land & Lakes Co. v. Industrial Comm'n*, 359 Ill. App. 3d 582, 590-91 (2005), the employer argues that, "[t]o lay a proper foundation for the admission of [unpaid] medical bills, the claimant must present testimony of a treating physician or an employee of the medical practice familiar with the practice's billing methods regarding the reasonableness of the charges." Because the claimant presented no such testimony, the employer argues that there was no foundation for the unpaid medical bills and that they should not have been admitted. However, the Act was amended in 2005 to ease the foundational requirements for the admission of medical bills and records. The Act now provides that "[t]he records, reports, and bills kept by a treating hospital, treating physician, or other treating health care provider *** certified to as true and correct by the hospital, physician ***, or by designated agents *** shall be admissible *without any further proof* as evidence of the medical and surgical matters stated therein, but shall not be conclusive proof of such matters." (Emphasis added.) 820 ILCS 305/16 (West 2008).[3] Although the Act requires such records, reports, and bills to be certified in order to be admissible, the amended Act provides that "[t]here shall be a rebuttable presumption that any such records, reports, and bills received in response to Commission subpoena are certified to be true and correct." *Id.* Here, the unpaid medical bills at issue were produced in response to a Commission subpoena, and the employer has presented no evidence to rebut the statutory presumption that they are certified to be true and correct. Accordingly, the bills were admissible without any further proof.[4]

¶ 51 The employer also argues that the Commission's award of past and prospective medical expenses was against the manifest weight of the evidence because the claimant failed to present testimony or other evidence suggesting that these expenses were reasonable, necessary, or causally connected to her injuries. We disagree. Whether medical expenses are reasonable and necessary is a question of fact for the Commission, and the Commission's determination will not be overturned unless it is against the manifest weight of the evidence. *Cole v. Byrd*, 167 Ill. 2d 128, 136-37 (1995); *F&B Manufacturing Co. v. Industrial Comm'n*, 325 Ill. App. 3d 527, 534 (2001). If the employer fails to introduce any evidence to suggest that services rendered were not necessary or that the charges were not reasonable, an award to a claimant who presents some evidence in support of the award will be upheld. *Max Shepard, Inc. v. Industrial Comm'n*, 348 Ill. App. 3d 893, 903 (2004); *Ingalls Memorial*

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[3]This provision has long applied to the admissibility of hospital bills and records. The 2005 amendments to the Act extended the provision to the bills and records of treating physicians and other treating healthcare providers.

[4]*Land & Lakes* addressed the foundational requirements for the admission of unpaid medical bills under the business record exception to the hearsay rule. It did not address the 2005 amendments to the Act, which took effect four weeks before *Land & Lakes* was decided. Presumably, the parties in that case did not address the 2005 amendments and limited their arguments to the business record exception, which was the primary vehicle for the admission of unpaid medical bills and records or treating physicians and other health care providers prior to the 2005 amendments.

Hospital v. Industrial Comm'n, 241 Ill. App. 3d 710, 718 (1993). In this case, the claimant's medical records documented her back and neck injuries, the pain she suffered as a result of those injuries, and the medical procedures that her doctors believed were necessary and appropriate to treat her pain and injuries (including both past treatments and recommended prospective treatments). The employer presented no evidence suggesting that these treatments were not necessary to cure or relieve the effects of claimant's injury. Nor did it present any evidence showing that these bills were unreasonable in light of what other healthcare providers typically charge for the same services in the relevant geographical area. Thus, we cannot say that the Commission's finding that the medical treatments performed by the claimant's doctors and the prospective medical treatments they recommended were reasonable and necessary was against the manifest weight of the evidence. See *Ingalls Memorial Hospital*, 241 Ill. App. 3d at 718; *General Tire & Rubber Co. v. Industrial Comm'n*, 221 Ill. App. 3d 641, 650-51 (1991).

¶ 52 CONCLUSION

¶ 53 The order of the circuit court of Sangamon County is affirmed in part and reversed in part. The portion of the circuit court's order which affirmed the Commission's decision to reduce the claimant's TTD benefits is reversed. The remainder of the circuit court's order, which affirmed the Commission's decision in all other respects, is affirmed, and the matter is remanded to the Commission for further proceedings.

¶ 54 Affirmed in part and reversed in part; cause remanded.