2013 IL App (1st) 120107WC
No. 1-12-0107WC
Order Filed: March 11, 2013

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

WORKERS' COMPENSATION DIVISION

AMERICAN AIRLINES, INC.,	)	Appeal from the Circuit Court
	)	of Cook County.
Appellant,	)	
	)	
v.	)	No. 10-L-51497
	)	
ILLINOIS WORKERS' COMPENSATION	)	Honorable
COMMISSION *et al.* (Anita Ingold, Appellee).	)	Alexander White,
	)	Judge, Presiding.

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

ORDER

¶ 1 *Held:* The Commission's determination that claimant's injuries were causally related to her employment, that claimant was entitled to TTD benefits, and determination of medical bills were consistent with the manifest weight of the evidence. However, we remanded to the Commission for the limited purpose of specifying what medical bills the Commission awarded petition and what credits respondent was entitled to receive. Thus, we affirmed in part and remanded with instructions.

¶ 2 Claimant, Anita Ingold, filed a claim pursuant to the Workers' Compensation Act (the Act) (820 ILCS 305/1 (West 2008)) alleging that she sustained an injury to her knee and ankle while

working as a flight attendant for respondent, American Airlines, Inc. The matter proceeded to a hearing, where the arbitrator found that (1) claimant suffered an injury on January 8, 2006, while working for respondent and was entitled to temporary total disability (TTD) benefits from January 12, 2006, through January 26, 2006; (2) claimant sustained an injury on March 1, 2007, that was causally related to her present ill-being; (3) claimant incurred $224,549.49 in necessary and reasonable medical bills; and (4) claimant was entitled to TTD benefits from March 2, 2007, through September 9, 2009, for a total of 131 2/7 weeks. Thereafter, respondent filed a petition for review before the Illinois Workers' Compensation Commission (the Commission). The Commission affirmed the arbitrator's decision, but modified the award of medical bills to $100,768.10.

¶ 3 On September 27, 2010, respondent filed a complaint in the trial court seeking judicial review of the Commission's findings, which the trial court affirmed. Respondent now appeals the trial court's order, contending that (1) the Commission erred in concluding that claimant's injuries were causally related to her employment; (2) the Commission erred in concluding that claimant was entitled to TTD benefits; (3) the Commission erred in concluding that claimant was entitled to payment of medical expenses; (4) the Commission erred by failing to provide claimant with credit for bills previously paid and by not giving it a credit pursuant to section 8(j) of the Act. For the following reasons, we affirm the trial court's judgment with respect to liability, total temporary disability, and medical bills awarded, but remand to the Commission for clarification with respect to credits respondent was entitled to receive.

¶ 4 I. Background

¶ 5 The record reflects that claimant has worked for respondent as a flight attendant since 1985. Claimant's job duties involved helping to ensure passenger safety, providing meal services, and

assisting passengers with placing their luggage in overhead compartments. On March 12, 2007, and September 4, 2007, claimant filed applications for benefits with the Commission, which were subsequently consolidated.

¶ 6 The matter proceeded to an a hearing that commenced on September 9, 2009. Claimant testified that, on January 8, 2006, while she was selling duty free items from a cart, a passenger dropped a computer that hit her "right in between the ankles." Claimant testified that she experienced pain, burning, and swelling. Claimant testified that she missed work following the incident, but for "not long." Claimant further testified that, on March 1, 2007, on a flight returning from Manchester, England, a passenger bumped into her while she pushed a cart during meal service, causing her legs to get twisted under the 175-pound cart. Claimant testified that she experienced "extreme pain"and that she did not work during the rest of the flight and has not returned to work since.

¶ 7 Regarding the March 1, 2007, incident, claimant testified that she sought medical treatments from her primary care physician, Dr. Phoebe Panaopio, as soon as she returned home. Claimant testified that she also followed up with Dr. Harman Dick, a neurologist that treated her for reflex sympathetic dystrophy (RSD) since she was diagnosed with that condition in 1994. Claimant testified that she was also being treated by Dr. Ji Li, a pain management doctor, who had provided her with a spinal cord stimulator and had given her various injections to manage her pain.

¶ 8 Claimant testified that she was hospitalized in February 2008 for septic cellulitis and that she received follow-up care from Dr. Stephen Doughty, an infectious disease specialist. Claimant testified that she had not had any further instances of cellulitis and that she never had cellulitis prior to the March 1, 2007, incident. Claimant testified that, at the time of the hearing, she was

experiencing a painful burning sensation; she was shaking, which she did not do prior to March 1, 2007; that she had trouble sleeping; and that she used a wheelchair, as instructed by Dr. Panaopio. Claimant testified that she was not able to walk "very far" without experiencing intense pain.

¶ 9 During cross-examination, claimant acknowledged that, on January 26, 1994, she sustained a "major" injury while working for the Bloomington-Normal Police Association. Claimant testified that, on that date, she slipped on ice and fractured her ankle, and that she was first diagnosed with RSD following that injury. Claimant acknowledged that, as a result of the injury, she was off work from her job with respondent from 1994 through "sometime in 1999."

¶ 10 Claimant clarified that, with respect to the March 1, 2007, incident, she fell in the middle of the aisle, that the "cart just kept rolling on top of my legs," and that both legs were under the cart. Claimant testified that she has had several episodes of RSD since 1994. Claimant further testified that she had previously been diagnosed with shingles. Claimant acknowledged that she had been receiving disability benefits since July 2008.

¶ 11 Following claimant's testimony, the parties submitted evidence depositions and other documentation into evidence. Claimant proffered an evidence deposition of Dr. Li. Dr. Li testified that he was board certified in anesthesiology and was a pain physician specialist. Dr. Li testified that he first treated claimant in 2007, while claimant was hospitalized at St. Joseph's hospital in Bloomington, and that he has since been managing claimant's pain, primarily with pain medication. Dr. Li testified that claimant informed him of the March 1, 2007, injury, and to the best of his knowledge, claimant has not been symptom free since the injury. Dr. Li testified that any trauma, "even smaller trauma," in the same location where a patient has had RSD in the past can "flare up

the symptoms." Dr. Li testified that his treatment plan involved relieving claimant's pain, and once her pain improved, gradually increase the intensity of her physical therapy.

¶ 12 Dr. Li testified that claimant's inability to work was causally related to the symptoms resulting from the March 1, 2007, incident. Dr. Li testified that claimant underwent treatment for cellulitis in 2008, but the cellulitis was a "totally different entity" and not related to his diagnosis.

¶ 13 During cross-examination, Dr. Li clarified that he diagnosed claimant with complex regional pain syndrome (CRPS). CRPS is the modern term for RSD. Dr. Li acknowledged that he had not seen any medical records related to claimant's last instance of RSD, and with respect to other physicians treating petitioner, Dr. Li testified that he believed that he "saw some report from the infectious disease [doctor] and some report from [the] neurologist." Dr. Li testified that he did not believe that claimant's current symptoms related back to her 1994 RSD diagnosis because the initial symptoms of RSD get treated, the patient fully recovers, and the patient gets re-injured again, causing flare ups. Dr. Li testified that claimant could not work due to the "large dose" of medications she was taking, which could inhibit her judgment, and the swelling in her legs. Dr. Li acknowledged that it was "very hard to differentiate" whether the swelling in claimant's legs resulted from the cellulitis or the RSD.

¶ 14 Claimant proffered the evidence deposition of Dr. Dick, who testified that he was board certified in neurology and internal medicine. Dr. Dick testified that RSD was a chronic pain condition that last from months to years in individuals who have injuries to their nerves. Dr. Dick testified that the basic symptoms included chronic pain often described as constant burning, stinging, and aching, and is also associated with redness, swelling, and sweating in the affected area.

¶ 15 Dr. Dick testified that he first examined claimant on October 21, 1986, and claimant had a diagnosis for RSD "as far back as 1995." Dr. Dick testified that the "overall course" of claimant's illness has been characterized as episodes of RSD pain which would bother her for several weeks to months and result in her having to take time off from her work as a flight attendant, followed by improvement and returning to work. Dr. Dick testified that claimant has never been cured of RSD, but that she has had periods where she has done "relatively well, particularly when she's been able to go back to her job, but other times it's been severe."

¶ 16 With respect to the March 1, 2007, incident, Dr. Dick testified that he first treated claimant on May 21, 2007. Dr. Dick testified that claimant called his nurse, advised that she was hurt at work when a cart "ran over her right leg," her RSD had worsened, and that she had been off from work since the incident. Dr. Dick clarified that he did not see claimant at that time, and the first time he saw her in person was during her hospital admission on October 30, 2007. Dr. Dick testified that he "could not clearly relate" claimant's hospitalization for numbness on the left side of her face to RSD. Dr. Dick testified that he next saw claimant in early February 2008, when she was hospitalized for cellulitis, which developed into septic encephalopathy. Dr. Dick testified that claimant was readmitted on February 25, 2008, for recurrent cellulitis.

¶ 17 Dr. Dick testified that claimant's March 1, 2007, injury, aggravated her RSD symptoms. Dr. Dick specified that "this kind of blunt injury with a heavy object would affect the nerves where the foot was struck and could aggravate" RSD symptoms.

¶ 18 On cross-examination, Dr. Dick testified that claimant's RSD had "remarkably improved" but has not completely resolved. Dr. Dick testified that, after the March 1, 2007, accident, claimant spoke with a nurse, but he typically relies on nurses to obtain information to care for a patient. Dr.

Dick further admitted that, when he first examined claimant after the March 1, 2007, accident, on October 30, 2007, the primary purpose of claimant's visit was the numbness over her head and RSD. Dr. Dick testified that claimant's cellulitis was not related to her RSD, and when he saw claimant on September 25, 2008, his impression was that claimant's RSD was under control through medication. Dr. Dick acknowledged that, when he saw claimant in April 2008, claimant was "primarily" suffering from encephalopathy.

¶ 19 Claimant entered the deposition of Dr. Doughty into evidence. Dr. Doughty testified that he was board certified in infectious diseases and internal medicine. Dr. Doughty testified that he treated claimant while she was hospitalized with cellulitis. Dr. Doughty testified that he physically examined claimant on February 25, 2008, after she was readmitted to the hospital, and claimant had "persistent possibly worsening cellulitis and myositis" and "had a previous diagnosis of [RSD], and that was still present." Dr. Doughty testified that he saw claimant outside of the hospital on March 5, 2008, March 12, 2008, and May 28, 2008. Dr. Doughty testified that his assessment of claimant on May 28, 2008, was that she had skin lesions on her leg that he felt was not active cellulitis. Dr. Doughty testified that he believed claimant did not have any cellulitis when he saw her on May 28, 2008, and that she could have returned to work. Dr. Doughty testified that there was not a connection between claimant's RSD diagnosis and her cellulitis infection. On cross-examination, Dr. Doughty acknowledged that he did not examine claimant for RSD and that the symptoms of RSD were "really something outside of my expertise."

¶ 20 Claimant proffered the evidence deposition of Dr. Panaopio, who was board certified in internal medicine. Dr. Panaopio testified that claimant had been her patient since July 2003, and originally saw her due to her RSD diagnosis. Dr. Panaopio testified that claimant has "had a battle

with RSD" and that she would have "flare ups of pain." Dr. Panaopio testified that, since March 1, 2007, claimant has not been able to work due to her RSD and that she was deferring care to Dr. Dick and Dr. Li. Dr. Panaopio testified that claimant's current condition of ill-being was causally related to the March 1, 2007, incident. Dr. Panaopio further testified that the treatments she had rendered to claimant since March 1, 2007, were causally related to her work injury and that claimant's RSD "flare up" from the incident had not resolved. Dr. Panaopio testified that she had last seen claimant in February 2008, and that at point, claimant was not capable of working.

¶ 21 During cross-examination, Dr. Panaopio acknowledged that she did not specifically recall speaking with claimant since February 2008, other than when claimant brought her daughter to see Dr. Panaopio. Dr. Panaopio admitted that, prior to July 2003, claimant's RSD was treated solely by Dr. Dick and that she did not have access to Dr. Dick's records regarding claimant's prior episodes with RSD. Dr. Panaopio testified that, since 2003, claimant has had, at the very least, two outbreaks of herpes zoster, and that herpes zoster "presents with pain." With respect to the January 8, 2006, incident, Dr. Panaopio testified that claimant was able to go back to work on January 26, 2006.

¶ 22 Dr. Panaopio further testified on cross-examination that, when she saw claimant on March 1, 2007, she did not examine her for RSD, but instead treated claimant's knee injury. Dr. Panaopio testified that her next chart notation was from March 20, 2007, and although the chart did not reflect any color change in claimant's leg, her right leg was red and she had unexplained pain. Dr. Panaopio admitted that she did not diagnose claimant with RSD on March 20, 2007. Dr. Panaopio testified that, on April 5, 2007, she evaluated claimant for knee pain and that claimant's knee had an intact range of motion "but slow limping on ambulation." Dr. Panaopio testified that she first diagnosed claimant with RSD resulting from the March 1, 2007, incident, on June 19, 2007, because the pain

claimant still experienced "was not explainable any more by the injury." Dr. Panaopio testified that she saw claimant again on June 26, 2007, and that she noted that claimant's RSD was "worsening" despite the chart not reflecting that she examined claimant.

¶ 23 On re-direct, Dr. Panaopio testified that she was not sure whether claimant's cellulitis was related to claimant's herpes zoster or her RSD.

¶ 24 Respondent offered the deposition of Dr. E. Richard Blonsky. Dr. Blonsky testified that he was board certified in neurology and pain medicine. Dr. Blonsky testified that he first examined claimant on May 6, 2008, and that claimant presented herself in a wheel chair. Dr. Blonsky testified that claimant had symptoms of "CRPS type 1" but there was an inconsistency in that claimant complained of "allodynia when I very lightly rubbed along her leg *** but didn't have any pin perception or pain perception." Dr. Blonsky testified that claimant could not work at that time. Dr. Blonsky testified that he again examined claimant on December 23, 2008. Dr. Blonsky testified that, while claimant had RSD, he did not believe it resulted from the March 1, 2007, airline injury. Rather, her knee injury had resolved and claimant's subsequent cellulitis contributed to her RSD.

¶ 25 On October 26, 2009, the arbitrator entered its finding. The arbitrator found that, on both January 8, 2006, and March 1, 2007, claimant sustained injuries that arose during the course of her employment. The arbitrator ordered respondent to pay claimant TTD benefits of $924.09 per week for 1 6/7 weeks resulting from the January 8, 2006 injury. The arbitrator further awarded claimant $924.09 per week for 131 2/7 weeks and $225,549.49 for medical expenses resulting from the March 1, 2007, injury.

¶ 26 Respondent appealed the arbitrator's decision to the Commission. On August 30, 2010, the Commission modified the arbitrator's decision by reducing claimant's medical expenses to

$100,768.10. The Commission excluded medical bills related to claimant's cellulitis, gastric issues, and chest pains, among others. The Commission affirmed the other portions of the arbitrator's findings.

¶ 27 On September 27, 2010, respondent appealed the Commission's decision to the trial court. On December 12, 2011, the trial court entered an order affirming the Commission's order. The trial court concluded that claimant met her burden of establishing that she sustained an aggravation of her RSD on March 1, 2007, noting that both the arbitrator and the Commission found Drs. Panaopio's, Dick's, and Li's testimony credible. The trial court concluded that "[t]here is no dispute] that claimant suffered from RSD prior to the work accident, but "[w]hat is different this time [is] that the work accident caused a flare up which has been unremitting and has not resolved." The trial court affirmed the Commission's determination that claimant was entitled to TTD benefits resulting from the January 8, 2006, and March 1, 2007, incidents. Finally, the trial court affirmed the Commission's determination with respect to medical bills. Respondent timely appealed.

¶ 28 II. Discussion

¶ 29 A. Causal Relationship

¶ 30 Respondent's first contention is that the Commission's finding that claimant's current state of ill-being injuries were causally related to her employment was against the manifest weight of the evidence. With respect to claimant's January 8, 2006, injury, respondent argues that claimant "did not testify as to any current state of ill-being," and further, Dr. Panaopio was the only physician who examined claimant during that time, and she offered no opinion regarding the causal relationship between claimant's current state of ill-being and the January 8, 2006, accident. With respect to the March 1, 2007, accident, respondent argues that the opinions of Drs. Panaopio, Dick, and Li "[were]

based upon a faulty understanding of [claimant's] mechanism of injury" and "a complete misunderstanding of her significant pre-existing condition of [RSD] and corresponding medical treatment."

¶ 31 Under the Act, a claimant has the burden of establishing the necessary causal relationship between the employment and the injury. *Lee v. Industrial Comm'n*, 167 Ill. 2d 77, 81 (1995). A claimant can do so by showing that the injury occurred while the employee was acting under the direction of the employer, the injury occurred while the employee performed an act reasonably incident to an assigned employment duty, or if the injury occurred while the employee was performing a statutory or common-law duty while working for his employer. *Id*. A claimant's employment need only be a causative factor in the condition of ill-being, and need not be the sole or even the primary cause. *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 205 (2003). "The fact that other incidents, whether work related or not, may have aggravated [a] claimant's condition is irrelevant." *Lasley Construction Co. v. Industrial Comm'n*, 274 Ill. App. 3d 890, 893 (1995). Thus, a preexisting condition does not prevent recovery under the Act if that condition was aggravated or accelerated by the claimant's employment. *Tower Automotive v. Illinois Workers' Compensation Comm'n*, 407 Ill. App. 3d 427, 434 (2011). Whether a causal connection exists between a claimant's condition of ill-being and employment, and whether the injuries were attributable to an aggravation or acceleration of a preexisting condition, are factual issues to be decided by the Commission and will not be overturned unless they are against the manifest weight of the evidence. *Id.* The appropriate test is whether sufficient evidence exists to support the Commission's decision, not whether this court might have reached the same conclusion. *Benson v. Industrial Comm'n*, 91 Ill. 2d 445, 450 (1982).

¶ 32 In this case, the record contains sufficient evidence to support the Commission's decision. The record is undisputed that claimant suffered from RSD since at least 1995. With respect to claimant's January 8, 2006, injury, claimant testified that a passenger dropped a computer on her ankle during a flight; that she experienced pain, burning, and swelling; and that she missed work after the incident. We are cognizant that Dr. Panaopio did not specifically testify as to a causal relationship between claimant's injury and her current state of ill-being. However, our supreme court has held that "medical evidence is not an essential ingredient to support the conclusion of the [Commission] that an industrial accident has caused the disability," but rather, "[a] chain of events which demonstrates a previous condition of good health, an accident, and subsequent injury resulting in a disability" may be sufficient 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, there is no dispute that claimant was able to work prior to January 8, 2006, she suffered an injury on that date, and that she was unable to return to work for a few weeks. Given this chain of events, sufficient evidence exists to support the Commission's decision with respect to claimant's January 8, 2006, injury. See *id.* at 64.

¶ 33 Moreover, a similar chain of events existed with respect to claimant's March 1, 2007, injury. She was working prior to that date, suffered an injury, and has been unable to return to work since. In addition, Drs. Li and Panaopio testified that claimant's current state of ill-being was causally related to her March 1, 2007, injury; Dr. Dick testified that the injury aggravated claimant's RSD. Respondent stresses that the doctors' opinions should not be afforded any weight for various reasons, including that Dr. Panaopio originally treated claimant for a knee injury, not RSD, following the March 1, 2007, incident, and that Dr. Dick never examined respondent for RSD following the

incident. Respondent also notes that Dr. Li never reviewed Dr. Panaopio's records regarding claimant's "long standing [RSD]." However, the record is devoid of any indication that the doctors would have been unable to causally connect claimant's current state of ill-being with her March 1, 2007, injury, despite the alleged shortcomings in their treatment. Thus, while Dr. Blonksy testified that claimant's knee injury had resolved and that her current state of ill-being resulted from her subsequent cellulitis, the Commission could have relied on claimant's testimony as well as that of Drs. Dick, Li, and Panaopio. In other words, "[d]istilled to their finest, [respondent's] arguments *** are nothing more than arguments of credibility and weight." See *See Tower Automotive*, 407 Ill. App. 3d at 435-36 (holding that the Commission's finding was not against the manifest weight of the evidence, even though two physicians testified that the claimant's current state of ill-being resulted from a preexisting degenerative condition, because the Commission relied on the claimant's and another physician's testimony that his work activities aggravated and accelerated the preexisting condition).

¶ 34 In support of its position, respondent cites *Gross v. Illinois Workers' Compensation Comm'n*, 2011 IL App (4th) 100615WC. In *Gross*, the claimant filed claims for coal workers' pneumoconiosis (CWP), histoplasmosis, and chronic obstructive pulmonary disease (COPD), although the appeal only concerned COPD. *Gross*, 2011 IL App (4th) 100615WC, ¶ 3. The claimant asserted that his condition resulted from inhaling coal mine dust, rock dust, fumes, and vapors during his 39 years working for the employer, a coal mining company. *Id.* ¶ 3. The claimant's examining physician performed a pulmonary function exam and concluded that the claimant provided "good efforts" for which he obtained reproducible results. *Id.* ¶ 10. Based on that test, among other tests, claimant's physician diagnosed him with mild COPD and opined during the

hearing that the claimant's condition resulted from a combination of his former cigarette smoking and coal and dust inhalation. *Id.* ¶ 11. The employer's physician, who did not examine the claimant but reviewed his medical records as well as the claimant's physician's report and deposition, believed that the claimant's pulmonary function testing was not valid because the claimant had not provided a "good effort." *Id.* ¶¶ 12, 15. The employer's physician opined during the hearing that, with a reasonable degree of medical certainty, the claimant's COPD resulted from his years of tobacco use rather than his exposure to coal mine and dust; further, the claimant's exposure to coal dust did not contribute to the claimant's condition. *Id.* ¶ 15. The arbitrator gave greater weight to the testimony of the employer's physician and concluded that none of the claimant's conditions were caused or contributed to by his exposure to coal mine dust. *Id.* ¶ 17. The Commission subsequently adopted and affirmed the arbitrator's findings. *Id.* ¶ 18.

¶ 35 On appeal, we found the Commission's finding with respect to the claimant's COPD to be against the manifest weight of the evidence. *Id.* ¶ 20. In doing so, we reiterated the well-settled maxim that an occupational activity need not be the sole or even the principal causative factor, as long as it is *a* causative factor. (Emphasis in original.) *Id.* ¶ 22. We noted that "[o]f great significance *** is the fact that the claimant had been exposed to both coal dust and cigarette smoke for a period of nearly 40 years [and] [b]oth experts agreed that either exposure could have caused obstructive lung disease." *Id.* ¶ 23. We further concluded that the record did not contain sufficient evidence to support the employer's physician's conclusion that the claimant's history of coal inhalation was not a contributive or aggravating cause of the claimant's COPD. *Id.* ¶ 26. Rather, the employer's physician failed to offer an adequate explanation or factual basis for his determination that the sole cause of the claimant's COPD was his tobacco use. *Id.*

¶ 36 The holding in *Gross* only adds further support to our determination. Like the claimant in *Gross*, who had a history of both coal dust inhalation and cigarette smoking that could have contributed to his COPD, claimant here had a history of RSD and sustained an injury on March 1, 2007. Claimant's March 1, 2007, injury need not be the sole or even the principle causative factor, so long as it was a causative factor. See *id.* ¶ 22.

¶ 37 Further, unlike the employer's physician in *Gross*, claimant's physicians here had an adequate basis of knowledge to conclude that the March 1, 2007, injury aggravated claimant's RSD. Dr. Panaopio treated claimant on March 1, 2007, and a number of times in the weeks following her injury. Drs. Li and Dick both physically examined claimant following her injury, albeit not immediately after the injury occurred. Nonetheless, Dr. Dick treated claimant as early as May 2007 for her March 1, 2007, injury and he had a history of treating claimant for RSD dating back to 1995. Each doctors' testimony reflected a familiarity with claimant's history of RSD and her March 1, 2007, injury, and as a result, their opinions were supported by underlying facts. Thus, unlike the employer's physician in *Gross*, who failed to offer an adequate explanation or factual basis for his determination that the sole cause of the claimant's state of ill-being was his smoking, Drs. Li, Dick, and Panaopio offered an adequate explanation with a sufficient factual basis for their conclusion that claimant's RSD was a causative factor to her current state of ill-being. See *id.* ¶ 24 (quoting *In re Joseph S.*, 339 Ill. App. 3d 599, 607 (2003) and noting that expert opinions must be supported by facts and are only as valid as the facts underlying them).

¶ 38 B. TTD Benefits

¶ 39 Respondent's second contention is that the Commission erred in concluding that claimant established that she was entitled to TTD benefits. With respect to claimant's January 8, 2006, injury,

respondent argues that claimant did not make a claim of benefits for that period. Regarding claimant's March 1, 2007, injury, respondent primarily relies on the argument made with respect to its first contention on appeal, and reiterates that claimant was treated for her knee injury, her symptoms abated, and the findings regarding her subsequent RSD diagnosis or flare ups were against the manifest weight of the evidence.

¶ 40 "It is a well-settled principle that when a claimant seeks TTD benefits, the dispositive inquiry is whether the claimant's condition has stabilized, *i.e.*, whether the claimant has reached maximum medical improvement." *Interstate Scaffolding, Inc. v. Illinois Workers' Compensation Comm'n*, 236 Ill. 2d 132, 142 (2010). The factors to be considered in determining whether a claimant has reached maximum medical improvement include a release to return to work, the medical testimony concerning the claimant's injury, the extent of the injury, and whether the injury has stabilized. *Mechanical Devices v. Industrial Comm'n*, 344 Ill. App. 3d 752, 760 (2003). The period during which a claimant is temporarily totally disabled is a question of fact to be determined by the Commission, and will not be overturned unless it was against the manifest weight of the evidence. *Interstate Scaffolding*, 236 Ill. 2d at 142.

¶ 41 Initially, we reject respondent's argument that claimant did not make a claim for benefits for the period between January 12, 2006, through January 26, 2006. The record reflects that claimant filed an application for adjustment of claim for her January 8, 2006, injury. We recognize, as claimant concedes, that the parties' stipulation sheet at the time of the arbitration did not make a claim for benefits for the period of January 12, 2006, through January 26, 2006. However, we do not find that dispositive. "[T]he [Act] is a remedial statute intended to provide financial protection for injured workers and should be liberally construed to accomplish that objective." *Flynn v.*

Industrial Comm'n, 211 Ill. 2d 546, 556 (2004). To hold that claimant is not entitled to TTD benefits because the stipulation did not contain a claim for that period, even though claimant had previously filed an application for adjustment of claim for her injury and testified about the January 8, 2006, injury without objection from respondent, would undermine the spirit and the purpose of the Act.

¶ 42 Moreover, the Commission's conclusion that claimant was entitled to TTD benefits from March 2, 2007, through September 9, 2009, was consistent with the manifest weight of the evidence. Applying the above factors, the record is devoid of any indication that claimant has obtained a release to return to work. Further, Drs. Li and Panaopio testified that claimant had been unable to return to work since her March 1, 2007, injury. Thus, the Commission's TTD award was not against the manifest weight of the evidence. See *Cropmate Co. v. Industrial Comm'n*, 313 Ill. App. 3d 290, 297 (2000).

¶ 43 C. Medical Bills

¶ 44 Respondent's third contention on appeal is that the trial court erred in awarding medical bills to claimant. In support of this contention, respondent notes that the Commission found that certain medical bills were unrelated to claimant's condition and that, "having demonstrated that [claimant's RSD symptoms] are not causally related," the Commission's award of medical bills was against the manifest weight of the evidence.

¶ 45 Respondent's argument is unpersuasive. Section 8(a) of the Act provides that an employer is required to pay for "all necessary first aid, medical and surgical services, and all necessary medical, surgical, and hospital services thereafter incurred, limited, however, to that which is reasonably required to cure or relieve from the effects of the accidental injury." 820 ILCS 305/8(a)

(West 2010)). The claimant bears the burden of proving his entitlement to an award of medical expenses by a preponderance of the evidence, and questions as to the reasonableness of medical expenses and their causal connection are questions of fact to be resolved by the Commission. *Westin Hotel v. Industrial Comm'n*, 372 Ill. App. 3d 527, 546 (2007). "[R]esolution of such matters will not be disturbed on review unless against the manifest weight of the evidence." *Id.*

¶ 46 In this case, respondent's argument is entirely premised on its assertion that claimant's current RSD symptoms were not related to the March 1, 2007, injury. As noted earlier, we affirmed the Commission's finding that claimant's current state of ill-being was causally related to her March 1, 2007, injury was consistent with the manifest weight of the evidence. Further, claimant's exhibit 20, listing medical bills, was admitted into evidence. This exhibit, along with testimony from the treating physicians, provided a sufficient factual basis for the Commission to award claimant medical expenses. Therefore, the award was proper. See *id.* at 547.

¶ 47 D. Credits

¶ 48 Respondent's final contention on appeal is that we should remand the matter to the Commission for a clarification with respect to medical bills awarded and credits given, "as it is unclear as to the basis of the sum of $100,768.10." We agree.

¶ 49 While a claimant has the burden of proving that he is entitled to benefits, the burden is on the employer to prove that it is entitled to a credit pursuant to section 8(j) of the Act. *Hill Freight Lines Inc. v. Industrial Comm'n*, 36 Ill. 2d 419, 424 (1967). Here, the parties stipulated at the arbitration hearing that certain medical bills incurred by claimant had already been paid, with claimant's attorney stipulating that "respondent has credit for any bill that was clearly marked as paid by [w]orkers' [c]ompensation." Thus, because claimant stipulated that certain medical bills had

already been paid and that respondent was entitled to a credit, we agree with respondent that the matter should be remanded to the Commission for the limited and sole purpose of having the Commission clarify which medical bills it awarded claimant and which credits respondent was entitled to receive. See generally *Fermi National Accelerator Laboratory v. Industrial Trial Comm'n*, 224 Ill. App. 3d 899, 911 (1992) (concluding that the Commission did not err in remanding the matter to an arbitrator for the purpose of clarifying credits when the record with respect to credits was not clear).

¶ 50 III. Conclusion

¶ 51 For the foregoing reasons, we affirm the trial court's judgment with respect to liability, total temporary disability, and the medical bills awarded, but remand to the Commission for clarification with respect to credits.

¶ 52 Affirmed and remanded with directions.