

**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).

2015 IL App (1st) 140471WC-U

FILED: September 30, 2015

NO. 1-14-0471WC

IN THE APPELLATE COURT

OF ILLINOIS

FIRST DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

JOZEF MACIASZ,	)	Appeal from
	)	Circuit Court of
Appellant,	)	Cook County
	)	No. 13L50171
v.	)	
THE ILLINOIS WORKERS' COMPENSATION	)	
COMMISSION <i>et al.</i> (Kojda Remodeling, Inc.,	)	Honorable
Appellee).	)	Patrick J. Sherlock,
	)	Judge Presiding.

---

JUSTICE HARRIS delivered the judgment of the court.

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

### **ORDER**

¶ 1 *Held:* (1) The Commission did not act contrary to law by addressing permanency during the section 19(b) proceeding brought by claimant under the Workers' Compensation Act (820 ILCS 305/19(b) (West 2008)).

(2) The Commission's determination that no causal connection existed between the alleged condition of ill-being in claimant's right eye and his work accident was not against the manifest weight of the evidence.

(3) The Commission's failure to award claimant vocational rehabilitation and maintenance benefits was not against the manifest weight of the evidence.

¶ 2 On May 13, 2009, claimant filed an application for adjustment of claim pursuant

to the Workers' Compensation Act (Act) (820 ILCS 305/1 to 30 (West 2008)), seeking benefits from the employer, Kojda Remodeling, Inc. Following a hearing, the arbitrator found claimant sustained injuries to his left eye that arose out of and in the course of his employment on April 29, 2009. He awarded claimant (1) 62 weeks' temporary total disability (TTD) benefits from April 30, 2009, through July 8, 2010; (2) 173 weeks' permanent partial disability (PPD) benefits pursuant to section 8(e) of the Act (820 ILCS 305/8(e) (West 2008)) for the "100% loss of [claimant's] left eye with an enucleation"; (3) medical expenses for the medical care rendered by a specific provider; (4) penalties of \$6,933.33; and (5) attorney fees of \$1,386.67. The arbitrator also concluded claimant failed to prove that an alleged condition of ill-being in his right eye was causally connected to his work accident, determined claimant was not entitled to maintenance benefits, and denied claimant's "claim for an award of permanency for the man-as-a-whole or a wage differential."

¶ 3 On review, the Workers' Compensation Commission (Commission) affirmed and adopted the arbitrator's decision. On judicial review, the circuit court of Cook County confirmed the Commission's decision. Claimant appeals, arguing the Commission's (1) adjudication of permanency in a proceeding under section 19(b) of the Act (820 ILCS 305/19(b) (West 2008)) was contrary to law, (2) determination that the alleged condition of ill-being in claimant's right eye was not causally connected to his work accident was against the manifest weight of the evidence, and (3) failure to award claimant vocational rehabilitation and maintenance benefits was against the manifest weight of the evidence. We affirm.

¶ 4 I. BACKGROUND

¶ 5 On May 13, 2009, claimant filed a petition for immediate hearing under section 19(b) of the Act (820 ILCS 305/19(b) (West 2008)). In a request for hearing form, the parties

agreed that issues in dispute included causation of claimant's current condition of ill-being, medical expenses, TTD, maintenance, the nature and extent of claimant's injury, penalties and attorney fees, whether any credit was due to the employer, and when payment was due to claimant for PPD benefits associated with the enucleation of claimant's left eye.

¶ 6 At arbitration, claimant, a Polish-speaking individual, testified with the aid of an interpreter. He stated he worked for the employer as "a construction worker or carpenter." On April 29, 2009, he was injured at work when a nail from a nail gun went into his left eye. Claimant was immediately taken to the hospital. He testified that, following his accident, he lost vision in his left eye. Eventually, his eye was removed and replaced with a prosthesis.

¶ 7 Claimant's medical records show, on April 29, 2009, the date of his accident, he underwent emergency surgery to repair his left eye. On May 7, 2009, he followed up with Dr. Marian Macsai at the Lasik Center, whose records state claimant was diagnosed with "Corneal/Scleral Laceration with Uveal Prolapse[,] Penetrating Eye Injury[,] Retinal Detachment with Retinal Defect, Unspecified[,] and Hyphema." A basic ophthalmology exam showed visual acuity of 20/20 in claimant's right eye. Dr. Macsai's records further stated claimant was "unable to work due to the eye injury, and ha[d] lost vision in the left eye and his depth perception."

¶ 8 On June 3, 2009, claimant returned to Dr. Macsai and reported eye pain. Records again reflect 20/20 visual acuity in claimant's right eye. Dr. Macsai recommended claimant strongly consider surgery to reconstruct his left eye.

¶ 9 The same date, claimant was seen by Dr. Aaron Weinberg for a consultation at Dr. Macsai's request. Claimant reported poor vision in his left eye since his injury. With respect to the left eye, Dr. Weinberg assessed claimant as having a vitreous hemorrhage with marked transvitreal membranes, a traumatic cataract, and traumatic iridodialysis. He recommended sur-

gery for claimant.

¶ 10 Claimant continued to follow up with Dr. Macsai. On June 25, 2009, Dr. Macsai's records reflect claimant reported eye pain and light sensitivity. Visual acuity in his right eye was documented as "20/25 +2." On September 24, 2009, his right eye visual acuity was noted as 20/20 but Dr. Macsai noted claimant's "right eye vision decreased." Finally, on January 5, 2010, Dr. Macsai noted claimant had no vision in his left eye and referred him to Dr. Daniel Tresley for enucleation/evisceration. At that time, the visual acuity in claimant's right eye was noted as 20/30.

¶ 11 At arbitration, the employer submitted documentation identifying Dr. Tresley as a board certified ophthalmologist. On February 9, 2010, Dr. Tresley performed an "evisceration [of claimant's] left eye with implant." His "operation record" noted claimant had difficulty opening his right eye due to spasms and discomfort secondary to the left eye. Additionally, it shows risks, complications, and alternatives of the surgery were reviewed with claimant in detail and "[h]e understood [the] risks with his daughter explaining it to him."

¶ 12 On March 8, 2010, claimant followed up with Dr. Tresley, whose records state claimant was "[d]oing well" and could "open eyes." His records further documented a "[n]ormal exam" with respect to claimant's right eye. Dr. Tresley referred claimant to June Nichols, an ocularist, for a prosthetic eye.

¶ 13 On May 5, 2010, Dr. Tresley authored a note, stating claimant was unable to return to work until further notice. On May 27, 2010, Nichols noted claimant was doing well with his prosthesis. On June 7, 2010, Dr. Tresley noted claimant's prosthesis was in place but his prosthetic occasionally fell out. He further stated claimant's socket looked great and had excellent movement. On July 9, 2010, Dr. Tresley authored a note, stating claimant "may return to

work [and] must wear safety glasses."

¶ 14 On August 4, 2010, claimant saw Dr. Victor Forys at Central Medical Clinic of Chicago. Dr. Forys' records identify him as doctor of occupational and environmental medicine. Claimant testified he believed Dr. Forys was a general practitioner.

¶ 15 The medical records show Dr. Forys recorded the following history for claimant:  
"[Claimant] lost his eye in a[n] accident at work. Has [left] eye prosthesis. Difficulty [with] depth perception[,] peripheral vision[.] Has not worked or been able to find work since the accident. [Claimant] has limited English skills. Has been \*\*\*  
limited [*sic*] by his situation in finding gainful employment."

On examination, he found claimant had "visual acuity" in his right of 20/40 and he diagnosed claimant with "[decreased] vision [right] eye [with] depth perception abnormality." Dr. Forys noted that claimant was "only qualified to do manual labor and unable to work due to lack of depth perception." He took claimant off work.

¶ 16 On January 26, 2011, claimant returned to see Nichols. She noted no apparent complications with claimant's prosthesis and that claimant was comfortable and satisfied.

¶ 17 At arbitration, claimant testified he had "quite substantial" problems with depth perception. He stated he had issues using stairs, which would appear to him as a flat surface. Also, claimant would not feel comfortable using a ladder and did not "want to risk another accident" by working on a roof.

¶ 18 Claimant denied that the employer offered to take him back as a carpenter after his accident, stating it was "the other way around" and the employer told him "absolutely not." Claimant testified he would be willing to undergo vocational training if it was authorized by in-

surance. He did not know if he would be able to return to his old job as a carpenter, stating he had not tried to return to such work since his accident. However, claimant stated he "would love to return to work." He also wanted to take English classes.

¶ 19 Claimant testified he began his own job search and kept records of his search, which he submitted at arbitration. He stated he found job leads in a Polish newspaper because he did not speak English and looked for "[a]nything pertaining to carpentry." Claimant's testimony and job search records indicate that, from June 2010 to January 2011, he followed up on 57 job leads. Ultimately, his job search was unsuccessful.

¶ 20 On cross-examination, claimant testified he knew how to type, although he described himself as "[n]ot too good." He denied that he could "make a document," stating instead that he was a poet and wrote poems. Claimant also acknowledged that he could drive. Further, he testified that he had built houses "from start to finish." When he lived in Poland, he operated a company that built buildings "from A to Z, from digging the foundation to giving the keys to the owner."

¶ 21 At arbitration, claimant also submitted the testimony of Lisa Helma, a certified vocational rehabilitation counselor employed by Vocamotive, Inc. Helma, who also spoke Polish, met and evaluated claimant. She identified her initial evaluation report, dated August 27, 2010, which was admitted into evidence. Helma testified she reviewed claimant's medical records from both Dr. Tresley and Dr. Forys.

¶ 22 Helma testified claimant's work history was "comprised of working as a carpenter." She stated he did not have any transferable skills. Helma noted claimant spoke only Polish, and was unable to communicate in English. He also reported being illiterate in the English language. Helma testified claimant's educational background included eight years of elementary

school in Poland and nine months of a trade program in metals while in Poland. Claimant had not earned his General Equivalency Diploma (GED). Helma testified both claimant's inability to communicate in English and his educational background made him less employable. She further stated claimant was 53 years old at the time of his interview. Helma testified claimant's age affected his employability "in that he ha[d] been working in a narrow industry" and had "limited experience, which could affect his ability to adjust to other work."

¶ 23 Helma opined claimant would be a good candidate for vocational rehabilitation services. In particular, she believed claimant would benefit from English-as-a-second-language classes, noting there was "a seven week program, that's designed to give the clients the English speaking capabilities necessary to independently job search." However, Helma stated she could not "identify job targets [for claimant] because [she] did not have a clear understanding of what [claimant's] physical capabilities [were]."

¶ 24 The record reflects claimant attempted to elicit testimony from Helma regarding her opinion as to whether claimant could return to his previous line of employment. The arbitrator sustained the employer's objection to such testimony, finding Helma lacked the expertise to render such an opinion. However, he allowed claimant to make an offer of proof, during which Helma reiterated that she was a certified rehabilitation counselor and testified her occupation was "to make determinations regarding the employability of injured workers." She stated she reviewed claimant's transferrable skill, educational background, and the elements of his disability. Helma opined claimant was not capable of returning to work as a carpenter. In forming her opinion, she relied on the medical records of Dr. Tresley and Dr. Forys, the difficulties expressed by claimant, claimant's age and education, and the 20% unemployment rate in the construction industry.

¶ 25 On cross-examination, Helma agreed that, when analyzing the need for vocational training, she had to know a person's medical restrictions. With respect to claimant, she "just had the opinions of Dr. Forys and Dr. Tresley" and "not \*\*\* any medical restrictions." Helma acknowledged Dr. Tresley returned claimant to full-duty work and, thus, his recommendation conflicted with Dr. Forys' recommendation.

¶ 26 Helma further agreed that claimant provided a history of having done all types of construction, stating "he had built a house from start to finish." She acknowledged claimant had been in the Polish military for two years and, while in the military, had taken a six-month medical class. However, Helma did not consider such training to constitute a transferrable skill because there are "no certifications that would correlate to that type of background in the United States." Additionally, Helma agreed claimant knew how to type and "enjoyed writing verses." He reported having a computer at one point but giving it away to his son. Further, she testified claimant knew how to drive and had an Illinois drivers' license.

¶ 27 On re-direct, Helma denied that ophthalmologists were better suited than vocational counselors to determine an individual's ability to, for example, return to roofing work. She stated "[t]hey could only really give the details as to where the client's state is at that time." Further, she testified as follows:

"And I did not see any testing done that would show, you know, where [claimant's] vision is, you know, whether or not he was having difficulties. That's why I made the recommendation for testing by an occupational therapist, and also to meet with Dr. Tresley and review a job description. And just be able to communicate with Dr. Tresley because I also don't know how much understanding



there was between Dr. Tresley and [claimant], as there was no interpreter present for some of these meetings."

Helma stated she recommended "further testing" for claimant, so that she could determine appropriate job targets.

¶ 28 As stated, Helma's report, dated August 27, 2010, was admitted into evidence at arbitration. Although the employer initially objected to the report, it later withdrew its objection and the report was admitted in full. The report contained information consistent with Helma's arbitration testimony. Additionally, it showed claimant reported "difficulties with his right eye" and "difficulty with depth perception, peripheral vision[,] and hand-eye coordination." He also "reported that the vision in his right eye was corrected with reading glasses." According to the report, claimant independently performed the activities of daily living, including driving.

¶ 29 Helma's report stated she consulted the Dictionary of Occupational Titles, which showed that a position as a carpenter "required frequent depth perception and near acuity (clarity of vision at 20 feet or more)." She also telephoned the carpenters' union and "was informed that the union would not be willing to hire an individual with only one eye" due to safety concerns, concerns with depth perception, and because such an individual would work at a slower pace.

¶ 30 In her report, Helma noted both Dr. Tresley's release for claimant to return to work and Dr. Forsy's opinion that claimant was unable to work. She recommended "[f]urther medical clarity" and stated as follows:

"Given the difficulties that [claimant] expressed and the requirements of a Carpenter, it is unknown as to whether Dr. Tresley reviewed the job duties of a Carpenter in order to determine whether [claimant] was able to return to his previous positions.

Given the difficulties in language barriers, it is unclear as to whether Dr. Tresley was able to understand the difficulties that [claimant] was having with regards to his vision and depth perception.

It is the recommendation of this consultant that a detailed job description be given to Dr. Tresley. It is the recommendation of this consultant that a meeting be held with Dr. Tresley in order to review a detailed job description along with [claimant's] complaints in order to determine whether [claimant] is safely able to perform the requirements of his previous position."

¶ 31 In rendering her opinions as to claimant, Helma first found that, if Dr. Tresley was "correct," then claimant was capable of returning to work in his "previous position." In such circumstances, she determined claimant "would have no occupational impairment and subsequently no wage loss exposure." However, Helma asserted that if Dr. Forsys was "correct" then claimant had "lost access to his usual and customary line of occupation." If such was the case, she opined "claimant would remain employable at this time." Helma stated job targets and wage earning potential could be identified "pending further clarity on [claimant's] physical capabilities." Again, Helma recommended "[f]urther medical clarity" to determine why Dr. Tresley reported claimant was capable of returning to work.

¶ 32 On March 4, 2011, the arbitrator issued his decision in the matter. He found claimant sustained work-related injuries to his left eye on April 29, 2009, and awarded benefits as stated. The arbitrator also determined claimant failed to prove he had a condition of ill-being in his right eye that was causally connected to his work accident. He stated as follows:

"While treating with Dr. Tresley, [claimant] did not report a depth perception problem with his right eye. It was not until after he was released to return to work on July 9, 2010, and started care with Dr. Forys that he reported a loss of depth perception with his right eye. Further, there is no medical evidence of any diagnostic testing of [claimant's] depth perception or other reason given by Dr. Forys for his opinions. The opinions of Dr. Forys are without merit and are of no probative value. [Claimant's] claim of no depth perception is not credible."

Further, he determined claimant was not entitled to maintenance benefits, stating claimant "failed to prove that he has any permanent physical restrictions imposed by either Dr. Tresley or Dr. Macsai, that he was not able to return to his former occupation[,] and that he was not able to work." Finally, the arbitrator denied claimant's "claim for an award of permanency for the man-as-a-whole or a wage differential." He concluded claimant "failed to prove that he has any permanent physical restrictions imposed by the treating physicians due to the removal of his left eye or that he is not able to return to his former occupation."

¶ 33 On November 1, 2011, the Commission entered a corrected decision and opinion on review. It affirmed and adopted the arbitrator's decision without further comment. On January 9, 2014, the circuit court confirmed the Commission's corrected decision.

¶ 34 This appeal followed.

## ¶ 35 II. ANALYSIS

### ¶ 36 A. Scope of 19(b) Proceedings

¶ 37 Claimant first argues that the Commission erred by adjudicating permanency

when the underlying proceeding was brought pursuant to section 19(b) of the Act (820 ILCS 305/19(b) (West 2008)). He maintains he did not intend that the issue of permanency would be resolved and asserts "that it is improper for the Commission to consider permanency in cases proceeding to immediate hearing pursuant to section 19(b)."

¶ 38 With respect to immediate hearings before the arbitrator, section 19(b) of the Act (820 ILCS 305/19(b) (West 2008)) provides as follows:

"The Arbitrator *may* find that the disabling condition is temporary and has not yet reached a permanent condition and *may* order the payment of compensation up to the date of the hearing, which award shall be reviewable and enforceable in the same manner as other awards, and in no instance be a bar to a further hearing and determination of a further amount of temporary total compensation or of compensation for permanent disability, but shall be conclusive as to all other questions except the nature and extent of said disability." (Emphases added.)

¶ 39 Section 19(b) of the Act utilizes permissive language, thereby contemplating the existence of circumstances in which the issue of permanency is appropriately decided at the time of a section 19(b) hearing. We find such circumstances existed in the case at bar, distinguishing it from the case authority relied upon by claimant. Notably, in this case, the parties' request for hearing identified the nature and extent of claimant's injury as an issue in dispute. Additionally, evidence related to permanency was presented at arbitration. Given these circumstances, we find neither the arbitrator nor the Commission committed error by addressing permanency.

¶ 40 B. Condition of Ill-being in Claimant's Right Eye

¶ 41 On appeal, claimant further challenges the Commission's finding that he failed to prove he suffered a condition of ill-being in his right eye that was causally related to his work accident. He maintains the Commission's decision was against the manifest weight of the evidence because (1) Dr. Macsai noted on May 7, 2009, that claimant had "lost \*\*\* his depth perception"; (2) in August 2010, Dr. Forsys noted claimant had difficulty with depth perception and peripheral vision; (3) claimant reported vision problems to his vocational rehabilitation counselor and at arbitration; and (4) claimant's right eye was not within the scope of Dr. Tresley's treatment of claimant.

¶ 42 "In a workers' compensation case, the claimant has the burden of proving, by a preponderance of the evidence, all of the elements of his claim." *Dig Right In Landscaping v. Workers' Compensation Comm'n*, 2014 IL App (1st) 130410WC, ¶ 27, 16 N.E.3d 739. "Whether a causal connection exists between a claimant's condition of ill-being and [his] work[-]related accident is a question of fact to be resolved by the Commission, and its resolution of the matter will not be disturbed on review unless it is against the manifest weight of the evidence." *University of Illinois v. Industrial Comm'n*, 365 Ill. App. 3d 906, 913, 851 N.E.2d 72, 79 (2006). "In resolving such issues, it is the function of the Commission to decide questions of fact, judge the credibility of witnesses, and resolve conflicting medical evidence." *Dig Right In Landscaping*, 2014 IL App (1st) 130410WC, ¶ 27, 16 N.E.3d 739.

¶ 43 "For the Commission's decision to be against the manifest weight of the evidence, the record must disclose that an opposite conclusion clearly was the proper result." *Vogel v. Industrial Comm'n*, 354 Ill. App. 3d 780, 786, 821 N.E.2d 807, 813 (2005). Additionally, the appropriate 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." *Vogel*, 354 Ill.

App. 3d at 786, 821 N.E.2d at 812-13.

¶ 44 Here, the Commission determined claimant failed to prove a condition of ill-being in his right eye that was causally connected to his work-related accident. To support its finding, the Commission relied, in part, on claimant's failure to "report a depth perception problem with his right eye" while treating with Dr. Tresley. This factual finding is supported by the record as Dr. Tresley's medical records, submitted at arbitration by claimant, are devoid of any depth perception complaints. Claimant attempts to dismiss the lack of such complaints by maintaining that Dr. Tresley was concerned only with the treatment of his left eye. However, we find the record contradicts this contention, showing claimant's right eye was within the scope of Dr. Tresley's care. In particular, Dr. Tresley's February 9, 2010, "operation record" noted claimant had difficulty opening his right eye due to spasms and discomfort secondary to the left eye. Further, on March 8, 2010, his records documented a "[n]ormal exam" with respect to claimant's right eye.

¶ 45 On appeal, claimant further points out that, on May 7, 2009, Dr. Macsai noted claimant had "lost \*\*\* his depth perception." However, this isolated report occurred only eight days after claimant's work accident and no similar complaints were documented in claimant's medical records until August 2010, when he saw Dr. Forys.

¶ 46 Additionally, in reaching its decision, the Commission concluded Dr. Forys' opinions were without merit and of no probative value. It found "no medical evidence of any diagnostic testing of [claimant's] depth perception or other reason given by Dr. Forys for his opinions." Again, the record supports the Commission's findings. At arbitration, claimant described Dr. Forys as a general practitioner and Dr. Forys' records identify him as doctor of occupational and environmental medicine. His records do not reflect that he performed any diagnostic testing

related to his diagnosis of a "depth perception abnormality" in claimant's right eye. As the employer argues on appeal, it is not clear from Dr. Forys' notes whether he performed any objective test related to depth perception or whether he was merely documenting claimant's subjective complaints.

¶ 47 As stated, it was the Commission's function to decide questions of fact, judge the credibility of witnesses, and resolve conflicts in the medical evidence. Its findings with respect to Dr. Forys and its ultimate conclusion with respect to claimant's alleged right eye condition of ill-being were not against the manifest weight of the evidence. In other words, based on the record before this court, an opposite conclusion from that made by the Commission is not clearly apparent.

¶ 48 C. Vocational Rehabilitation and Maintenance Benefits

¶ 49 Finally, on appeal, claimant argues the Commission erred by failing to award vocational rehabilitation and maintenance benefits.

¶ 50 The Act "provides for physical rehabilitation as well as vocational rehabilitation, and mandates that the employer pay all maintenance costs and expenses incidental thereto." *Nascote Industries v. Industrial Comm'n*, 353 Ill. App. 3d 1067, 1075, 820 N.E.2d 570, 577 (2004). Specifically, section 8(a) of the Act (820 ILCS 305/8(a) (West 2008)) requires an employer to "pay for treatment, instruction[,] and training necessary for the physical, mental[,] and vocational rehabilitation of the employee, including all maintenance costs and expenses incidental thereto." "Vocational rehabilitation may include, but is not limited to, counseling for job searches, supervising a job search program, and vocational retraining including education at an accredited learning institution." 820 ILCS 305/8(a) (West 2008). Additionally, "rehabilitation efforts may be undertaken even though the extent of the permanent disability cannot yet be de-

terminated." *Freeman United Coal Mining Co. v. Industrial Comm'n*, 318 Ill. App. 3d 170, 180, 741 N.E.2d 1144, 1152 (2000).

¶ 51 "A claimant is generally entitled to vocational rehabilitation when he sustains a work-related injury which causes a reduction in his earning power and there is evidence that rehabilitation will increase his earning capacity." *Greaney v. Industrial Comm'n*, 358 Ill. App. 3d 1002, 1019, 832 N.E.2d 331, 347 (2005) (citing *National Tea Co. v. Industrial Comm'n*, 97 Ill. 2d 424, 432, 454 N.E.2d 672, 676 (1983)). More specifically, this court has held that "factors favoring rehabilitation include (1) that the employee's injury caused a reduction in earning power and there is evidence rehabilitation will increase his earning capacity, (2) that the employee is likely to lose job security due to his injury, and (3) that the employee is likely to obtain employment upon completion of rehabilitation training." *Amoco Oil Co. v. Industrial Comm'n*, 218 Ill. App. 3d 737, 751, 578 N.E.2d 1043, 1052 (1991). "Additional factors to be considered are the costs and benefits to be derived from the program; the employee's work-life expectancy; his ability and motivation to undertake the program; and his prospects for recovering work capacity through medical rehabilitation or other means." *Amoco Oil*, 218 Ill. App. 3d at 751, 578 N.E.2d at 1053.

¶ 52 Whether a claimant is entitled to a vocational rehabilitation award and maintenance benefits is for the Commission to decide "and its finding will not be reversed unless it is against the manifest weight of the evidence." *W.B. Olson, Inc. v. Workers' Compensation Comm'n*, 2012 IL App (1st) 113129WC, ¶ 39, 981 N.E.2d 25. On review, the Commission's decision will not be reversed unless an opposite conclusion is clearly apparent. *W.B. Olson*, 2012 IL App (1st) 113129WC, ¶ 39, 981 N.E.2d 25.

¶ 53 It is undisputed that claimant sustained an injury to his left eye which caused him



to lose vision in that eye and required its removal. In July 2010, Dr. Tresley released claimant to return to full-duty work. Helma, claimant's vocational rehabilitation expert, opined that, if Dr. Tresley was "correct," (rather than Dr. Forys, who took claimant off work) then claimant was capable of returning to work in his "previous position" and "would have no occupational impairment and subsequently no wage loss exposure." As discussed, the Commission's reliance on the opinions of Dr. Tresley over Dr. Forys was not against the manifest weight of the evidence. Thus, claimant was unable to establish that his work-related injury caused a reduction in his earning power and the Commission's refusal to award vocational rehabilitation and maintenance benefits was not against the manifest weight of the evidence.

¶ 54

### III. CONCLUSION

¶ 55

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

¶ 56

Affirmed.