

2015 IL App (1st) 142483WC-U
No. 1-14-2483WC
Order filed: September 30, 2015

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

ABF FREIGHT SYSTEM, INC.,)	Appeal from the Circuit Court
)	of Cook County.
Respondent-Appellant,)	
)	
v.)	No. 13-L-50989
)	
JOHN CRAVENS and THE ILLINOIS)	
WORKERS' COMPENSATION)	
COMMISSION,)	Honorable
)	Edward S. Harmening,
Petitioners-Appellees.)	Judge, Presiding.

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

ORDER

¶ 1 *Held:* (1) The Commission's decision to set February 7, 2009, as the manifestation date of claimant's repetitive-trauma injury is not against the manifest weight of the evidence; and (2) the Commission's finding that there is a causal connection between claimant's current condition of ill-being and his employment is not against the manifest weight of the evidence.

¶ 2

I. INTRODUCTION

¶ 3 Respondent, ABF Freight System, Inc., appeals from the judgment of the circuit court of Cook County confirming a decision of the Illinois Workers' Compensation Commission (Commission) awarding benefits to claimant, John Cravens, pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2010)). On appeal, respondent challenges the Commission's finding that claimant's bilateral carpal-tunnel syndrome manifested itself on February 7, 2009. Respondent also argues that the Commission erred in concluding that claimant's current condition of ill-being is causally related to his employment. For the reasons set forth below, we affirm the decision of the Commission.

¶ 4

II. BACKGROUND

¶ 5 On or about March 13, 2009, claimant filed an application for adjustment of claim seeking benefits for a repetitive-trauma injury involving both hands. The application alleged an accident date of February 7, 2009. The matter proceeded to an arbitration hearing on December 5, 2012. The following evidence relevant to this appeal was presented at the arbitration hearing.

¶ 6 Claimant testified that he has been employed by respondent as an over-the-road truck driver for nine years. Claimant's average trip is 400 to 600 miles and lasts between 8 and 14 hours. Claimant's truck has a manual transmission, power steering, cruise control, and adjustable steering. Claimant testified that he uses his right hand to shift gears and that he changes gears an average of 200 times per trip. According to claimant, the steering wheel in his truck is much larger than one in a passenger car. As such, it requires more handling and a firmer grasp of the wheel. Claimant stated that in severe weather conditions, he has to grip the steering wheel harder than normal and maintain constant pressure on it with both hands. Claimant

testified that he notices vibration and periodic jiggling in the steering wheel when driving on rough roads or irregular pavement. Claimant related that aside from driving, his other work duties include coupling and uncoupling trailers and turning cranks.

¶ 7 Claimant testified that on February 7, 2009, he began to notice a lot of swelling and tingling in both hands, so he contacted his primary-care physician, Dr. John Gnap. Dr. Gnap was on vacation, so Dr. Thomas Waidzunas saw claimant on an emergency basis. At that time, claimant's chief complaint was swelling and numbness of the left hand. Dr. Waidzunas ordered a bilateral upper-extremity EMG/NCV. The test revealed bilateral carpal-tunnel syndrome, more severe in the right wrist than the left. Dr. Waidzunas diagnosed claimant with "severe CTS [left] wrist." He instructed claimant to follow up with Dr. Gnap, but also referred claimant to Dr. James Schlenker, a board-certified hand surgeon.

¶ 8 Claimant presented to Dr. Schlenker on February 18, 2009, with complaints of tingling, numbness, and swelling of the left hand. Claimant reported that he began to develop symptoms as much as a year earlier, when he noticed numbness and tingling while at work. Claimant occasionally works in the cold, so he initially thought he had frostbite. However, the symptoms gradually worsened, and by January 2009, they were causing claimant to wake up at night. Dr. Schlenker's notes reflect that claimant had been in the truck-driving profession for 26 years and that in his position for respondent, he works 70 hours per week. Dr. Schlenker also recorded some of claimant's job duties, including hooking and dragging trailers, pushing converter gears (between trailers), turning cranks, shifting a nine-speed transmission, and holding onto the steering wheel with his left hand. Dr. Schlenker diagnosed carpal-tunnel syndrome. He initiated conservative treatment with a cortisone injection to the left carpal tunnel. He also provided claimant with a splint to wear at night and ordered laboratory tests to rule out diabetes and

hypothyroidism. Dr. Schlenker indicated that if claimant did not respond to the cortisone injection, he would recommend an endoscopic carpal-tunnel release.

¶ 9 Claimant followed up with Dr. Gnap on February 26, 2009. According to Dr. Gnap's progress note, claimant reported work-related carpal-tunnel of the left hand which improved following a cortisone injection to the left wrist. Dr. Gnap diagnosed carpal-tunnel syndrome. Claimant followed up with Dr. Gnap on March 23, 2009, at which time Dr. Gnap reiterated his diagnosis. Claimant saw Dr. Schlenker on March 31, 2009. At that time, he reported that the cortisone injection helped for the first week only. Claimant's laboratory tests showed a borderline elevated blood-sugar level at 106, but Dr. Schlenker considered this normal. Claimant's thyroid-function test was also normal. Dr. Schlenker recommended endoscopic carpal-tunnel release surgery of the left wrist. He informed claimant that while awaiting surgery he could continue his regular job "although it will tend to aggravate his condition."

¶ 10 At respondent's request, claimant underwent an independent medical evaluation (see 820 ILCS 305/12 (West 2008)) with Dr. Paul Papierski, on April 16, 2009. Dr. Papierski recorded a history of numbness and tingling in both hands, left greater than right, for "almost a year." Claimant related that since the onset of his symptoms, they have gradually worsened and, in January 2009, began to wake him up at night. Claimant told Dr. Papierski that he works as a truck driver. He stated that he alternates hands while holding the steering wheel, but shifts gears with the right hand. He further stated that he "does not handle freight necessarily," but does move peripheral equipment and hook up trailers. Dr. Papierski noted that claimant's carpal-tunnel compression test was positive, left greater than right. Dr. Papierski's diagnostic impression was bilateral carpal-tunnel syndrome. Dr. Papierski reviewed a job description and worksite analysis for claimant's position, but found "nothing in the job description which would

lead [him] to believe that the activities described have any particular *** contribution to the development of carpal tunnel syndrome.” Further, Dr. Papierski noted that claimant’s job activities and physical demands did not fit any of the American Medical Association’s list factors or occupational risks as set forth in its “Guide to the Evaluation of Disease and Injury Causation” published in 2008.

¶ 11 Thereafter, claimant continued to see Dr. Schlenker, reporting increased pain. On February 5, 2010, Dr. Schlenker performed an endoscopic carpal tunnel release of the left wrist. Claimant was off work from February 6, 2010, through April 1, 2010, after which he returned to full duty.

¶ 12 On March 2, 2010, Dr. Schlenker composed a letter to claimant’s attorney. In the letter, Dr. Schlenker described claimant’s work as “repetitive in nature.” He noted, for instance, that claimant has to drive and shift the truck, hook and unhook trailers, handle converter gears, and turn cranks. He also noted that the truck has a 9-speed shift mechanism, so when claimant drives, he has to hold the steering wheel with one hand and shift with the other. Dr. Schlenker reiterated his belief that claimant had bilateral carpal-tunnel syndrome. Moreover, Dr. Schlenker opined that the disease “was either caused or significantly aggravated by his work as a truck driver.”

¶ 13 Claimant continued to treat with Dr. Schlenker after surgery on his left wrist, with complaints of increasing symptoms in his right hand. On March 30, 2012, claimant underwent an endoscopic carpal-tunnel release of the right wrist performed by Dr. Schlenker. Claimant was off work from March 30, 2012, through June 7, 2012. Claimant returned to work full duty on June 8, 2012. At the arbitration hearing, claimant testified that he continues to work full time and full duty for respondent as an over-the-road truck driver, the same position he held on

February 7, 2009. Claimant also testified that he is able to perform all duties required of this position.

¶ 14 Dr. Papierski generated an addendum report based, in part, upon claimant's updated medical records. Dr. Papierski reiterated his opinion that claimant's job duties did not contribute to his carpal-tunnel syndrome. Noting that claimant had been a truck driver for a total of 26 years, Dr. Papierski opined that "if the kind of work that [claimant] was doing contributed to the development of carpal tunnel syndrome, there certainly would have been symptoms within a year or two of the onset of doing that kind of work."

¶ 15 Dr. Schlenker testified by evidence deposition regarding various matters, including his understanding of claimant's job duties. He stated that he has treated numerous truck drivers for carpal tunnel due to problems related to driving a truck, "especially if they have to do more than just drive the truck," as in claimant's situation. Dr. Schlenker opined that claimant's job was the main contributor to both the left and right carpal-tunnel syndrome because there is no previous history and he does not have any other identifiable causes such as diabetes or hypothyroidism. On cross-examination, Dr. Schlenker admitted that he did not review a written job description or a video of claimant's job duties. He stated, however, that he relied on claimant's description of his duties. Dr. Schlenker testified that, regardless of the additional duties, steering alone can cause carpal-tunnel syndrome over time in susceptible individuals due to the vibration from a steering wheel.

¶ 16 Based on the foregoing evidence, the arbitrator denied benefits. The arbitrator concluded that claimant failed to establish an accident arising out of and in the course of claimant's employment. The arbitrator reasoned that claimant presented no evidence to show any specific injury, accident, or trauma on the alleged accident date of February 7, 2009, or any other date.

The arbitrator also found that claimant failed to establish that his current condition of ill-being was causally related to the employment. In support, the arbitrator adopted the opinion of Dr. Papierski over that of Dr. Schlenker, reasoning that Dr. Papierski was the only examining physician who reviewed claimant's written job description and worksite analysis.

¶ 17 The Commission reversed the decision of the arbitrator and awarded benefits. The Commission concluded that claimant established that he sustained accidental injuries arising out of and in the course of his employment, namely bilateral carpal-tunnel syndrome, with a manifestation date of February 7, 2009. The Commission noted that that was the date of claimant's first visit with Dr. Waidzunas, who saw claimant on an emergency basis because claimant's primary-care physician was not available. The Commission also found that claimant established that his bilateral carpal-tunnel syndrome was causally related to his employment. Specifically, the Commission determined that claimant's job involved the significant use of his hands, firm gripping, and exposure to vibration while driving a truck. The Commission acknowledged the conflicting medical opinions regarding causation, but found Dr. Schlenker's finding of causation more credible than Dr. Papierski's contrary conclusion. The Commission acknowledged that Dr. Schlenker did not review a written description or a video of claimant's duties. It concluded, however, that Dr. Schlenker's understanding of claimant's job duties was "substantially similar to that which [claimant] testified" and therefore his opinion was "credible and based on an accurate understanding of [claimant's] duties." The Commission awarded claimant 18 weeks of temporary total disability benefits (see 820 ILCS 305/8(b) (West 2008)), reasonable and necessary medical expenses (see 820 ILCS 305/8(a) (West 2008)), and 51-1/4 weeks of permanent total disability benefits, representing the loss of use of 12.5% of the left

hand and 12.5% of the right hand (see 820 ILCS 305/8(e) (West 2008)). On judicial review, the circuit court of Cook County confirmed the decision of the Commission. This appeal followed.

¶ 18

III. ANALYSIS

¶ 19

A. Accident

¶ 20 On appeal, respondent first argues that the Commission erred in finding that claimant proved an accident arising out of and in the course of his employment as a truck driver. Specifically, respondent challenges the Commission's finding that claimant established February 7, 2009, as the manifestation date of his injuries. According to respondent, other than report that his symptoms began about a year prior to when he initially sought medical treatment, claimant did not "point to an identifiable injury or specific date or time of onset of pain."

¶ 21 To be entitled to benefits under the Act, a claimant must prove by a preponderance of the evidence all elements necessary to justify an award. *Quality Wood Products Corp. v. Industrial Comm'n*, 97 Ill. 2d 417, 423 (1983). This includes establishing that he or she experienced an accident arising out of and in the course of employment. *Orsini v. Industrial Comm'n*, 117 Ill. 2d 38, 44 (1987). In the context of an acute-trauma injury, a claimant must show that an injury is traceable to a definite time, place, and cause. *International Harvester Co. v. Industrial Comm'n*, 56 Ill. 2d 84, 89 (1973); *Elliot v. Industrial Comm'n*, 303 Ill. App. 3d 185, 188 (1999). Similarly, where a repetitive-trauma injury is involved, a claimant must identify a date within the limitations period on which the injury "manifest[ed] itself." *Durand v. Industrial Comm'n*, 224 Ill. 2d 53, 65 (2006); *Peoria Belwood County Nursing Home v. Industrial Comm'n*, 115 Ill. 2d 524, 531 (1987). A repetitive-trauma injury is said to manifest itself on "the date on which both the fact of the injury and the causal relationship of the injury to the claimant's employment would have become plainly apparent to a reasonable person." *Peoria Belwood County Nursing*

Home, 115 Ill. 2d at 531. This court has recognized, however, that a rule based purely on discovery “would penalize those employees who continue to work without significant complications when the eventual breakdown of the physical structure occurs beyond the statute of limitations period.” *Zion-Benton High School District 126 v. Industrial Comm’n*, 242 Ill. App. 3d 109, 114 (1993). Thus, on occasion, the date of accident in a repetitive-trauma injury has been found to be when the employee can no longer perform his job (*Zion-Benton High School District 126*, 242 Ill. App. 3d at 114) or when the onset of pain necessitates medical attention (*Oscar Mayer & Co. v. Industrial Comm’n*, 176 Ill. App. 3d 607, 611-12 (1988); see also *Durand*, 224 Ill. 2d at 72) even if the employee was previously aware of the nature of his or her injury and its relationship to the employment.

¶ 22 The occurrence of a work-related accident is a question of fact. *Pryor v. Industrial Comm’n*, 201 Ill. App. 3d 1, 5 (1990). Likewise, determining the manifestation date of a repetitive-trauma injury involves a factual inquiry. *Durand*, 224 Ill. 2d at 65. In resolving factual matters, it is within the province of the Commission to assess the credibility of the witnesses, resolve conflicts in the evidence, assign weight to be accorded the evidence, and draw reasonable inferences from the evidence. *Hosteny v. Illinois Workers’ Compensation Comm’n*, 397 Ill. App. 3d 665, 674 (2009). We review the Commission’s factual determinations under the manifest-weight-of-the-evidence standard. *Orsini*, 117 Ill. 2d at 44. Thus, we will overturn the Commission’s causation finding only if an opposite conclusion is clearly apparent. *Bassgar, Inc. v. Illinois Workers’ Compensation Comm’n*, 394 Ill. App. 3d 1079, 1085 (2009).

¶ 23 In this case, the Commission set the manifestation date of claimant’s repetitive-trauma injury as February 7, 2009, the date claimant first sought treatment for problems involving his hands. Based on the evidence presented at the arbitration hearing, we find that a conclusion

opposite to that of the Commission is not clearly apparent. The record establishes that claimant's work as a truck driver involved shifting a manual transmission with his right hand an average of 200 times each workday. Claimant also related that his truck's steering wheel requires a firmer grasp, especially in severe weather conditions, and that the steering wheel is subject to vibrations and jiggling when driving on rough roads or irregular pavement. Claimant's other work duties include coupling and uncoupling trailers and turning cranks. Claimant began to experience numbness and tingling in his hands about one year before he first sought medical treatment. Although claimant first noticed these symptoms while at work, there is no indication that they interfered with claimant's duties as a truck driver. However, claimant's symptoms began to gradually worsen, and, by January 2009, they were causing him to wake up at night. Claimant's pain eventually reached the stage where he decided to consult a physician. This occurred on February 7, 2009, when claimant saw Dr. Waidzunas. Dr. Waidzunas conducted a bilateral upper-extremity EMG/NCV. Based on the results of that test, Dr. Waidzunas diagnosed carpal-tunnel syndrome. Every other physician who examined claimant agreed with this diagnosis. Given this evidence, the Commission could have reasonably concluded that February 7, 2009, was the date that claimant's condition progressed to the point that he necessitated medical treatment. See *Durand*, 224 Ill. 2d at 72; *Oscar Mayer & Co.*, 176 Ill. App. 3d at 612. Therefore, we cannot say that the Commission's decision to set February 7, 2009, as the manifestation date is against the manifest weight of the evidence.

¶ 24

B. Causation

¶ 25 Respondent also challenges the Commission's finding that claimant's current condition of ill-being—bilateral carpal-tunnel syndrome—is causally connected to claimant's duties as a truck driver. An employee seeking benefits under the Act has the burden of proving all elements

of his or her claim. *Beattie v. Industrial Comm’n*, 276 Ill. App. 3d 446, 449 (1995). Among other things, the employee must establish a causal connection between the employment and the injury for which he or she seeks benefits. *Boyd Electric v. Dee*, 356 Ill. App. 3d 851, 860 (2005). A work-related injury need not be the sole or principal causative factor, as long as it was a causative factor in the resulting condition of ill-being. *Sisbro, Inc. v. Industrial Comm’n*, 207 Ill. 2d 193, 205 (1993). Causation presents an issue of fact. *Bernardoni v. Industrial Comm’n*, 362 Ill. App. 3d 582, 597 (2005). As noted above, in resolving factual matters, it is within the province of the Commission to assess the credibility of the witnesses, resolve conflicts in the evidence, assign weight to be accorded the evidence, and draw reasonable inferences from the evidence. *Hosteny*, 397 Ill. App. 3d at 674. We review the Commission’s factual determinations under the manifest-weight-of-the-evidence standard. *Orsini*, 117 Ill. 2d at 44. Thus, we will overturn the Commission’s causation finding only if an opposite conclusion is clearly apparent. *Bassgar, Inc.*, 394 Ill. App. 3d at 1085.

¶ 26 In this case, the Commission concluded that claimant established that his bilateral carpal-tunnel syndrome was causally related to his employment. Specifically, the Commission determined that claimant’s job as a truck driver involved the significant use of his hands, firm gripping, and exposure to vibration. The Commission acknowledged the conflicting medical opinions regarding causation, but found Dr. Schlenker’s opinion that claimant’s condition of ill-being was causally related to his employment to be more credible than Dr. Papierski’s contrary opinion. In so finding, the Commission acknowledged that Dr. Schlenker did not review a written job description or a video of claimant’s duties. It concluded, however, that Dr. Schlenker’s understanding of claimant’s job duties was “substantially similar to that which

[claimant] testified” and therefore his opinion was “credible and based on an accurate understanding of [claimant’s] duties.”

¶ 27 Noting the repetitive nature of claimant’s work, Dr. Schlenker opined that claimant’s carpal-tunnel syndrome “was either caused or significantly aggravated by his work as a truck driver.” Respondent asserts that Dr. Schlenker’s causation opinion is premised on claimant’s “subjective account.” According to respondent, Dr. Schlenker reasoned that claimant’s carpal-tunnel syndrome was not caused by diabetes or hypothyroidism, so the only cause could have been claimant’s job. Respondent contends that Dr. Schlenker’s opinion is “based in conjecture and not with a full understanding of the facts.” We disagree.

¶ 28 Quite simply, the record supports the Commission’s finding that Dr. Schlenker had an accurate understanding of claimant’s duties as a truck driver. Dr. Schlenker was aware that claimant worked 70 hours per week as a truck driver. Dr. Schlenker was also aware that claimant drove a truck with a nine-speed manual transmission, using his right hand to shift gears and his left hand to steer. In addition, Dr. Schlenker knew that claimant’s duties required him to hook and unhook trailers, turn cranks, and connect the trailer to the cab. Dr. Schlenker confirmed his understanding of claimant’s job duties during his deposition testimony. At that time, he also noted that vibration from the truck’s steering wheel alone could lead to the development of carpal-tunnel syndrome.

¶ 29 Dr. Schlenker’s description of claimant’s job duties is corroborated not only by claimant’s own testimony, but also by the written job description provided by respondent to Dr. Papierski. The written job description describes the work responsibilities of an over-the-road truck driver as follows:

“Job responsibilities include the pickup and delivery of cargo trailers to and from various long-distance destinations and occasionally the pickup or delivery of freight from various customer locations. Drivers must couple and uncouple trailers from one another and from the tractor. Individuals will drive for extended periods of time over the road and in city environments. Drivers also perform various tasks ranging from check-in at the relay, tractor and trailer inspections, tractor setup, driving under various road conditions and pickup and delivery of cargo.”

The worksite analysis provides, *inter alia*:

“Over-the-road drivers utilize hand and forearm tasks when driving a tractor. This ranges from the medial and lateral grasp to the pulp inch [*sic*] and the medial and lateral pinch to the finger and palm press. These particular movements are necessary for holding the steering wheel, shifting the gears, grasping door handles, grasping the crank handle on the trailer/converter stand, pulling the pin on the fifth wheel, grasping controls on the console, holding writing instruments, depressing controls on the tractor console, checking and securing the hoses and electrical cables and gasping a tire iron when tapping a tire during the pre-trip inspection.”

Respondent cites nothing in the record that contradicts Dr. Schlenker’s understanding of claimant’s job duties.

¶ 30 In short, the Commission found Dr. Schlenker to be more credible on the issue of causal connection than Dr. Papierski. Based on the repetitive nature of claimant’s job duties, Dr. Schlenker found that claimant’s work was the main contributor to his bilateral carpal-tunnel syndrome. The basis for Dr. Schlenker’s causation opinion is corroborated by the record as a whole and demonstrates that he had a clear understanding of claimant’s job duties. Accordingly,

the Commission's conclusion that claimant's bilateral carpal-tunnel syndrome is causally connected to his job duties was not against the manifest weight of the evidence.

¶ 31 Prior to concluding, we note that, in support of its position, respondent directs us to several decisions of the Commission. As this court has repeatedly stated, however, decisions of the Commission are not precedential and thus should not be cited. *S & H Floor Covering, Inc. v. Illinois Workers' Compensation Comm'n*, 373 Ill. App. 3d 259, 266 (2007). Therefore, we decline to consider these decisions in our analysis.

¶ 32 IV. CONCLUSION

¶ 33 For the reasons set forth above, we affirm the judgment of the circuit court of Cook County, which confirmed the decision of the Commission.

¶ 34 Affirmed.