

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).

2016 IL App (2d) 150293WC-U

FILED: February 8, 2016

NO. 2-15-0293WC

IN THE APPELLATE COURT

OF ILLINOIS

SECOND DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

DAVID SCHMIDT,)	Appeal from
)	Circuit Court of
Appellant,)	Kane County
)	No. 14MR754
v.)	
THE ILLINOIS WORKERS' COMPENSATION)	
COMMISSION <i>et al.</i> (City of Aurora Police)	
Department, Appellees).)	Honorable
)	David R. Akemann,
)	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's finding of no causal connection between claimant's current condition of ill-being in his low back and the June 2011 work accident was not against the manifest weight of the evidence.

(2) Claimant forfeited any issue with the Commission's finding of no causal connection between his DVT and the June 2011 work accident by failing to address the Commission's finding he did not suffer an injury to his right leg during the work accident. Claimant's forfeiture of this issue precluded the appellate court's review of other issues related to his DVT.

¶ 2 On September 5, 2011, claimant, David Schmidt, filed an application for adjustment of claim pursuant to the Illinois Workers' Compensation Act (Act) (820 ILCS 305/1

to 30 (West 2010)), seeking benefits from the employer, City of Aurora Police Department. He alleged he suffered injuries to his right Achilles heel, calf, knee, and the lumbar region of his back. Following a July 19, 2013, hearing, the arbitrator denied benefits under the Act. Although the arbitrator found that claimant aggravated a preexisting lumbar spine condition during the June 29, 2011, work-training exercise, he concluded that any aggravation was temporary and that claimant's current condition of ill-being in his low back was not causally connected to the work accident. The arbitrator also found that claimant failed to prove an injury to his right lower extremity resulting from the work-training exercise and failed to prove causal connection between his current condition of ill-being in his right lower extremity, *i.e.*, deep vein thrombosis (DVT) or his ability to work and the work-training exercise. Accordingly, the arbitrator concluded that the employer was not liable for any medical services or temporary total disability (TTD) benefits related to claimant's diagnosis and treatment of his DVT. Further, the arbitrator found that the employer was not entitled to any credit for sick pay it paid to claimant. Last, the arbitrator denied assessing penalties and fees against the employer. On review, the Illinois Workers' Compensation Commission (Commission) affirmed and adopted the arbitrator's decision. It also remanded the matter to the arbitrator for further proceedings pursuant to *Thomas v. Industrial Comm'n*, 78 Ill. 2d 327, 399 N.E.2d 1322 (1980). On judicial review, the circuit court of Kane County confirmed the Commission's decision. This appeal followed.

¶ 3 On appeal, claimant argues the Commission erred in (1) finding no causal connection between the June 2011 work accident and his current conditions of ill-being in his low back and right leg; (2) denying medical benefits related to claimant's treatment for his DVT; (3) failing to award TTD benefits related to his DVT; (4) failing to order the implementation of a vocational rehabilitation plan and maintenance; and (5) denying penalties and attorney fees. We

affirm.

¶ 4

I. BACKGROUND

¶ 5

The following evidence relevant to this appeal was elicited at the July 19, 2013, arbitration hearing.

¶ 6

Claimant testified that as of the date of arbitration, he had been a police officer with the city of Aurora for 18 years. On June 29, 2011, he was participating in a work-related training exercise that required him to complete an obstacle course. The obstacle course consisted of sprinting approximately 80 yards from a parking deck into a building, transporting a dummy that weighed 150 pounds approximately 20 yards, pushing a squad car that was in neutral approximately 15 yards, running through various obstacles, doing pushups, and shooting firearms. Claimant testified, "[w]hen I started running in the parking garage, parking deck, I felt pain in my right leg from the Achilles into the calf and into the knee shortly after I started running." According to claimant, the pain increased as he completed the obstacle course. Claimant stated he told his supervisors he had hurt his leg and they told him to complete an incident report which he did later that day. Claimant testified that shortly after he completed the incident report, he was involved in a foot pursuit during which he felt "a lot of pain in [his] right leg."

¶ 7

Claimant did not report to work on June 30, 2011, because his back hurt. According to claimant, "[w]hen [he] was pulling the dummy [during the work-training accident], [he] also aggravated [his] back—his lower back." Claimant testified he had three prior back injuries which resulted in a laminectomy at L4/L5 in 1998, a cervical fusion from C4 through C6 in 2005, and a laminectomy at L5/S1 in 2006. Claimant had been treating with a chiropractor for pain in his low back on an "as needed" basis, which was "at least once a month" prior to the June

29, 2011, work incident.

¶ 8 Claimant sought treatment at Carson Chiropractic on June 30, 2011, "for the pain in [his] back." According to claimant, he told the chiropractor he "had done an obstacle course and had an actual full pursuit a few hours after that and that [his] back and also [his] lower right leg hurt." Claimant testified that the chiropractor adjusted his back and applied electrical stimulation to his leg, but the electronic stimulation hurt so claimant had him remove it.

¶ 9 Dr. Eric Carson's June 30, 2011, office record contains the following diagnoses: low back pain, lumbosacral region, lumbar disc degeneration, cervical arthritis/spondylosis, cervical disc degeneration, cervical neck pain, and cervicothoracic region. Dr. Carson noted that claimant's "aching pain and stiffness" in his neck and in "the region of his lower back radiating to the right leg that he has been experiencing *** has been getting better" since his last treatment, and that "[a]s a whole, the patient's progress has been continuing as expected leading to a good prognosis." On that date, claimant rated his low back pain a 5 out of 10. Dr. Carson's office record makes no mention of claimant having injured himself while completing an obstacle course, or of any injury to his right lower extremity. Dr. Carson's report reflects specific chiropractic adjustments were given but makes no mention of any electrical stimulation or treatment to claimant's right leg.

¶ 10 Claimant testified that on July 1, 2011, he left for a previously scheduled two-week vacation where he and his wife, along with their dog, drove to Colorado. Claimant stated that during the drive, he had a sharp pain in his lower back and in his right calf and knee down toward the Achilles. According to claimant, he got out of the car "at least every two hours" to walk around and "keep the blood flowing and get some activity in the leg." On July 15, 2011, while in Colorado, claimant saw Dr. Reason, a chiropractor. Claimant testified Dr. Reason

adjusted his back, but told him there was nothing he could do for his calf. On the "application for treatment" with Dr. Reason, claimant listed his major complaints as "stiffness [and] pain in lower back [and] stiffness in neck." Further, claimant noted that his condition was the result of his three prior surgeries.

¶ 11 Upon returning from vacation, claimant treated with Dr. Carson on July 18 and July 25, 2011, for his low back and neck. Dr. Carson's office records from these dates do not reference an obstacle course or mention any injury to claimant's right lower extremity. Dr. Carson's July 18, 2011, office record notes claimant's low back pain which radiated into his right leg "has been getting better since treatment started, and that claimant rated his low back pain a 4 out of 10. Dr. Carson's July 25, 2011, office record notes claimant reported his low back pain which radiated into his right leg "has been getting worse" since his last treatment and that claimant rated his pain a 6 out of 10.

¶ 12 Claimant testified that he noticed his right leg started to get warm toward the end of July and his primary care physician, Dr. Dominic Leung, told him to elevate it and ice it as needed. However, claimant testified he had not sought any specific treatment for his lower right extremity up to this point because he hoped it was a sprain or strain that would "work itself out." Claimant stated that he had sustained prior injuries to his lower right leg. In 1996, he was kicked several times during a riot, resulting in "extreme bruising" to his shin. Also, in 2007, he tore his right hamstring while playing softball. Following the June 29, 2011, incident, claimant stated that he experienced pain in his right leg every day.

¶ 13 On August 2, 2011, claimant went on "self sick" leave. On August 4, 2011, claimant saw Dr. Leung complaining of diarrhea for the last four days. Dr. Leung's office record contains the following note: "[claimant is] currently normotensive on no medications which

suggest[s] that he is dehydrated. Advised to push fluids, especially salty fluids."

¶ 14 On August 15, 2011, claimant saw Dr. Carson again. On that date, Dr. Carson noted claimant's low back pain "has been getting better" since his last treatment, and that claimant rated his low back pain a 5 out of 10.

¶ 15 On August 16, 2011, claimant sought treatment at Edward Hospital's emergency department due to "extreme pain" in his right calf. According to claimant, his calf was "very hot and felt like it was going to burst." The emergency physician report from August 16, 2011, notes that claimant's main complaint was "right lower extremity pain and swelling." It further provides a history of claimant stating "he has been immobile for the last 2 weeks because he has had diarrhea. He complains of pain and swelling [to the] right lower extremity for the last 2 days. *** He states his father has a history of DVT." Handwritten "integrated progress notes" from the emergency department visit also indicate that claimant reported he had an "injury to [his right] leg [one] month ago." Following an ultrasound, claimant was diagnosed with a DVT to his right lower extremity from the superficial femoral vein into the calf. He was given Lovenox injections and a prescription for Coumadin.

¶ 16 The next day, August 17, 2011, claimant saw Dr. Leung whose office record notes as follows:

"[Claimant] states that the he did sustain an injury at work on 6-29, running an obstacle course in which he twisted his right ankle and hurt his calf as well as his back. He had been seeing a chiropractor for his back and the ankle was not injured enough for him to miss work. In fact, he did not even mention it at his last appointment."

Dr. Leung further noted that claimant's DVT was "[m]ost likely related to his ankle injury, though he has had no prolonged immobility." Dr. Leung's August 30, 2011, office record indicates claimant was seen for a follow-up appointment on that date and that blood tests revealed claimant had a factor V Leiden deficiency which "gives him a 3 to 8-fold increased risk of thrombosis."

¶ 17 Also on August 17, 2011, claimant saw Dr. Russell Bodner at Midwest Orthopedic Institute. He had seen Dr. Bodner for prior orthopedic matters. Dr. Bodner's office report includes a history of claimant injuring "his right knee while doing an obstacle course on [June 29, 2011]. He describes sprinting and pushing a vehicle as well as other activities and during the second run he had a significant onset of pain in the right calf." Dr. Bodner's impression was "[a]cute [DVT] on top of an undiagnosed underlying calf and lower leg injury." Dr. Bodner recommended magnetic resonance imagings (MRIs) of claimant's right foot, ankle, and calf. Dr. Bodner's August 29, 2011, office report indicates that he reviewed claimant's MRIs and that his right ankle showed some tendonitis, his anterior talofibular ligament appeared scarred from a previous strain, his right leg MRI showed no tearing of the gastroc, and there was mild soleus and deep posterior compartment strain with edema consistent with a DVT.

¶ 18 Claimant next saw Dr. Carson on September 1, 2011, at which time Dr. Carson noted claimant's low back pain "has been getting no better and no worse" since his last treatment and that claimant rated his pain a 5 out of 10. At a September 21, 2011, chiropractic visit, Dr. Carson noted claimant's low back pain "has been getting better" since his last treatment and that claimant rated his low back pain a 4 out of 10. At a September 27, 2011, chiropractic visit, Dr. Carson noted his low back pain "has been getting no better and no worse" and that claimant rated his low back pain a 4 out of 10. At an October 17, 2011, chiropractic visit, Dr. Carson noted

claimant "has been getting no better and no worse" since the last treatment, and claimant continued to rate his low pain a 4 out of 10. At an October 28, 2011, chiropractic visit—the last visit recorded—Dr. Carson noted claimant's low back pain "has been getting worse" and that claimant rated his low back pain a 5 out of 10.

¶ 19 On November 30, 2011, claimant saw Dr. Bodner again, at which time Dr. Bodner noted his impression that claimant had developed "post phlebitic syndrome from possible internal compartment bleed." At a March 14, 2012, follow-up appointment, Dr. Bodner noted his impression as "[r]ight leg post phlebitic syndrome, in what sounds like a severe exertional compartment syndrome."

¶ 20 At arbitration, claimant introduced Dr. Bodner's evidence deposition taken August 24, 2012. Dr. Bodner testified that he was board certified in orthopedic surgery and specialized in the lower extremities. He testified that claimant had presented to him with a history of "first hurting his leg while running in an obstacle course with his colleagues in June, and he then had a second type of injury while he was working, where I think he was involved in a chase or something, and developed pain in his right leg" that led to the DVT diagnosis. Dr. Bodner confirmed his opinion expressed in a July 25, 2012, chart note that claimant's "story and timeframe is quite consistent with the injuries he sustained in training and in foot pursuits as contributing to the development of the DVT in his leg." Dr. Bodner testified that his opinion was based on "[t]he history of his case, repeated physical examinations, his clinical course and I guess you'd say my experience and judgment." On cross-examination, Dr. Bodner agreed that people with a Factor V Leiden deficiency "ha[ve] an 800 percent possibility of developing a clot over [someone who] doesn't have this or any other type of mutation." Dr. Bodner further agreed that given claimant's increased risk of developing a clot, he could have "just developed a clot at

home on or about August 15, 2011." On redirect examination, Dr. Bodner testified "[it] is my opinion that without the preexisting trauma that occurred on the 29th [of June 2011], he would not have gotten this [DVT]."

¶ 21 Claimant also introduced the evidence deposition of Dr. Photine Liakos taken November 9, 2012. Dr. Liakos testified that she was board certified in orthopedic surgery and specialized in feet and ankles. She saw claimant on one occasion at Dr. Bodner's request. Both Dr. Bodner and Dr. Liakos practiced at Midwest Orthopedic. Dr. Liakos obtained a history from claimant and reviewed the office medical records and MRI film of claimant's ankle. She also conducted a physical examination. Dr. Liakos testified that she "felt [claimant] had a history of a [DVT] with a postthrombosis syndrome with continued pain and discomfort, with continued evidence of clots." She also "felt that [claimant] had some signs and symptoms of exertional compartment syndrome and some numbness in the leg, of which [she] could not identify a discrete cause." Dr. Liakos stated that a Factor V Leiden deficiency was a "condition that is associated with an increased risk for blood clots." Dr. Liakos testified that the time frame for developing a DVT "can be extremely variable," and "could vary from day one up to weeks, months after an injury." She explained that a muscle tear or strain can cause swelling and pressure in the muscle compartment of the calf which can lead to a DVT.

¶ 22 Claimant also introduced the evidence deposition of Dr. Alexander Hantel taken November 28, 2012. Dr. Hantel testified that he was the medical director of the Edward Cancer Center. He also saw patients with blood borne diseases. Claimant was referred to him for a Factor V Leiden mutation, which Dr. Hantel explained is "a genetically manifested propensity to have increased risk of blood clotting." Dr. Hantel first saw claimant for this condition on September 6, 2011, at which time claimant reported he had "injured his knee and calf while

doing an obstacle course at work on June 29th. And then he had a significant amount of pain in the knee and calf at that time. And then he went on vacation shortly thereafter, and the entire time, the leg continued to bother him." He further reported having "had an acute onset of increased swelling and pain in his [right] leg" for which he sought treatment on August 16, 2011. Dr. Hantel testified that his impression on September 6, 2011, was that claimant's DVT "was probably brought on by the injury." He next saw claimant on April 17, 2012, at which time Dr. Hantel suspected claimant had postphlebotic syndrome which he described as "persistent pain and swelling in the leg" after a DVT due to damaged veins. Dr. Hantel continued to agree with his opinion expressed in a May 25, 2012, report that "the likelihood is great that the [DVT] was brought on by a calf injury resulting from [claimant's] activities on June 29, 2011, as provided by his history."

¶ 23 On cross-examination, Dr. Hantel agreed that a person with a Factor V Leiden deficiency could spontaneously develop a clot, but he testified "the likelihood is greatest that it has to be brought on by some other factor that's going to increase your risk." In Dr. Hantel's opinion, "you need typically [*sic*] more than just the genetic predisposition for blood clotting. You have to have an injury. You have to have immobility. You have to have dehydration." Dr. Hantel agreed that he did not know the details of claimant's drive to Colorado, but that sitting for long periods of time was a risk factor for developing a DVT. Dr. Hantel stated that a DVT could develop "weeks to a month or two" before it is diagnosed.

¶ 24 The employer introduced the evidence deposition of Dr. Troy Karlsson taken on December 17, 2012. Dr. Karlsson testified that he was board certified in orthopedic surgery and that he practiced general orthopedics with more than half of his practice involving lower extremities. He saw claimant for an independent medical evaluation on July 12, 2012. Claimant

told him he injured his right leg during firearms training on June 29, 2011, and that he again felt pain in his calf during a foot pursuit later that day. According to Dr. Karlsson, claimant also told him he drove out to Colorado on vacation but stopped every two hours or so during the drive to walk his dog. Dr. Karlsson also testified that claimant told him he had suffered from food poisoning and diarrhea from August 1, 2011, through August 15, 2011. Dr. Karlsson stated that claimant told him "he was moving around quite a bit so he did not feel he was immobilized." In Dr. Karlsson's opinion, someone with a Factor V Leiden deficiency has "an increased risk of getting a [DVT] with or without other risk factors such as immobilization or injury."

¶ 25 Dr. Karlsson testified that he reviewed certain medical records, including the August 16, 2011, emergency department record that indicated claimant reported "he had been immobile for two weeks because of diarrhea." According to Dr. Karlsson, a DVT would [usually develop] within the first several weeks and fairly quickly after the injury and immobilization itself." Dr. Karlsson opined that it was "unlikely" claimant's DVT was causally related to the June 29, 2011, incident due to the passage of time before claimant sought treatment and the fact that claimant's leg was not immobilized. Additionally, Dr. Karlsson testified that a Factor V Leiden deficiency was a risk factor that would cause a clot to develop faster. Dr. Karlsson opined that claimant's DVT was not caused by the June 29, 2011, work incident. Dr. Karlsson's opinion was based on "the history as given to [him] by [claimant], as well as the medical records that were reviewed, the other potential sources which seem more likely being the very close proximity of the time when he had two weeks with food poisoning and diarrhea, and his genetic predisposition with the Factor V Leiden deficiency."

¶ 26 On cross-examination, Dr. Karlsson testified that while the development of a DVT seven to eight weeks after an incident was not "necessarily abnormal, I think it's very

highly unlikely. I mean, we certainly after knee replacements will treat patients for up to six weeks to minimize the chance of DVT. But as you go further out from the injury it's less likely for it to be causing a DVT." Dr. Karlsson disagreed with Dr. Bodner's testimony that a person has the same risk of developing a clot two months after surgery than they do one month after surgery. Dr. Karlsson further testified that it was "certainly a strong possibility" that claimant's history of diarrhea for two weeks was a significant factor in his development of a DVT, especially where the emergency department noted "he was immobile for two weeks because of diarrhea."

¶ 27 On recross-examination, Dr. Karlsson testified that a person has the highest risk of developing a DVT "in the days to weeks immediately after the injury when there has been some recent trauma and when you're likely to be partially immobilized either because of pain or because of appropriate medical treatment such as a cast, a splint, etc."

¶ 28 Claimant testified that at the time of arbitration, he continued to have pain in his calf every day. His leg swells up, gets "very hot" and his right foot goes numb after standing in one spot for five minutes. He also stated he cannot sit for long periods of time because his calf starts to throb, and he cannot go up more than two flights of stairs due to extreme pain. Claimant further testified that he continued to receive chiropractic treatment from a Dr. Lukosus for his low back "once every two weeks." According to claimant, the soreness and stiffness in his low back is "worse now" and "more frequent" than it was before the work accident and he "can't sit as long now as I could before."

¶ 29 On August 13, 2013, the arbitrator issued his decision in the matter. As discussed, the arbitrator found that claimant aggravated a preexisting lumbar spine condition during the June 29, 2011, work-training exercise, but that any aggravation was temporary and

that claimant's current condition of ill-being in his low back was not causally connected to the work accident. The arbitrator also found that claimant failed to prove an injury to his right lower extremity resulting from the work-training exercise and failed to prove causal connection between his current condition of ill-being in his right lower extremity or his ability to work and the work-training exercise. Accordingly, the arbitrator concluded that the employer was not liable for any medical services or TTD benefits related to claimant's diagnosis and treatment of his deep vein thrombosis (DVT). Further, the arbitrator found that the employer was not entitled to any credit for sick pay it paid to claimant. Last, the arbitrator denied assessing penalties and fees against the employer.

¶ 30 On July 19, 2014, the Commission affirmed and adopted the arbitrator's decision. It also remanded the matter to the arbitrator for further proceedings pursuant to *Thomas*, 78 Ill. 2d 327, 399 N.E.2d 1322.

¶ 31 On March 3, 2015, the circuit court of Kane County confirmed the Commission's decision.

¶ 32 This appeal followed.

¶ 33 ANALYSIS:

¶ 34 On appeal, claimant asserts the Commission erred in (1) finding no causal connection between the June 2011 work accident and his current conditions of ill-being in his low back and right leg; (2) denying medical benefits related to claimant's treatment for his DVT; (3) failing to award TTD benefits related to his DVT; (4) failing to order the implementation of a vocational rehabilitation plan and maintenance; and (5) denying penalties and attorney fees.

¶ 35 A. Causal Connection

¶ 36 "To obtain compensation under the Act, a claimant bears the burden of showing,

by a preponderance of the evidence, that he has suffered a disabling injury which arose out of and in the course of his employment." *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 203, 797 N.E.2d 665, 671 (2003). " 'In the course of employment' refers to the time, place and circumstances surrounding the injury." *Id.* In other words, the injury "generally must occur within the time and space boundaries of the employment." *Id.* In addition, an injury must "arise out of" the employment. *Id.* "To satisfy [the 'arising out of'] requirement it must be shown that the injury had its origin in some risk connected with, or incidental to, the employment so as to create a causal connection between the employment and the accidental injury." *Id.*

¶ 37 "Whether a causal relationship exists between a claimant's employment and his injury is a question of fact to be resolved by the Commission, and its resolution of such a matter will not be disturbed on appeal unless it is against the manifest weight of the evidence." *Dig*

Right In Landscaping v. Illinois Workers' Compensation Comm'n, 2014 IL App (1st)

130410WC, ¶ 27, 16 N.E.3d 739. A finding is contrary to the manifest weight of the evidence where an opposite conclusion from that reached by the Commission is clearly apparent.

National Freight Industries v. Illinois Workers' Compensation Comm'n, 2013 IL App (5th)

120043WC, ¶ 26, 993 N.E.2d 473. "The appropriate test is not whether this court might have reached the same conclusion, but whether the record contains sufficient evidence to support the

Commission's determination." *Kawa v. Illinois Workers' Compensation Comm'n*, 2013 IL App (1st) 120469WC, ¶ 78, 991 N.E.2d 430. Further, "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.

¶ 38 1. *Right Leg Injury*

¶ 39 At the outset, we note that regarding his claimed right leg injury, claimant takes

issue only with the Commission's finding of no causal connection between the June 2011 work accident and his DVT. As noted, however, to be entitled to benefits under the Act, claimant bears the burden of showing he sustained an injury that arose out of and in the course of his employment. See *Sisbro*, 207 Ill. 2d at 203, 797 N.E.2d at 671. Claimant fails entirely to address the Commission's determination that he did not sustain an injury to his right leg during the work accident. If the Commission's decision that claimant did not suffer an accidental injury to his right leg was not error, we do not even consider the issue of causal connection as it relates to the DVT. Claimant's causal connection argument on appeal depends on the Commission having found he suffered an accidental injury to his right leg in June 2011—a claim the Commission expressly rejected in its decision. Therefore, claimant's failure to take issue with the Commission's finding of no injury to his right leg on appeal results in its forfeiture and precludes our review of the causation issue as it relates to his DVT. See Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013) (issues not raised on appeal are forfeited).

¶ 40

2. Low Back Injury

¶ 41

Claimant next argues the Commission's findings that the aggravation of his pre-existing low back condition was merely a temporary aggravation and that his current condition of ill-being in his low back was not causally connected to the June 2011 work accident was against the manifest weight of the evidence. Claimant's causation argument pertaining to his low back is confined to one paragraph in the argument section of his brief. Specifically, he asserts that the aggravation to his pre-existing low-back condition which he sustained during the work-related training exercise "has necessitated ongoing chiropractic treatment to address the aggravation of his symptoms that have worsened since this injury." Claimant asserts his low back symptoms "are more severe now than prior to the June 29, 2011, work-related injury as he cannot sit nor

stand for any length of time." After reviewing the record, we find that it supports the Commission's determination and an opposite conclusion is not clearly apparent.

¶ 42 The record shows that claimant continued to treat with a chiropractor following the June 29, 2011, work accident. However, none of the chiropractor records before us specifically refer to any aggravation to claimant's preexisting low back condition caused by a work related injury, and moreover, to the extent they reflect an aggravation of claimant's low back symptoms, such aggravation was limited in duration.

¶ 43 For example, Dr. Carson's June 30, 2011, office record notes that claimant reported he "has been getting better" since his last treatment" and that "as a whole, the patient's progress has been continuing as expected leading to a good prognosis." When claimant treated with Dr. Reason on July 15, 2011, his complaints included stiffness and pain in his low back and stiffness in his neck, both of which claimant noted were caused by his three prior back surgeries. On July 18, 2011, claimant reported to Dr. Carson that his low back pain had "been getting better" since his last treatment. On July 25, 2011, claimant indicated his low back pain had "been getting worse" since his last treatment, but by August 5, 2011, he again reported his low back pain had "been getting better" since his last treatment. During his next four chiropractic visits on September 1, 21, 27, and October 17, 2011, claimant reported his low back pain had "been getting better" since his last treatments. Then, on October 28, 2011, claimant again reported his low back pain had "been getting worse" since his last treatment. The record before us does not include evidence of chiropractic treatment received by claimant after October 28, 2011, despite claimant's testimony at arbitration that he continued to treat with a Dr. Lukosus for his low back condition every other week.

¶ 44 The record in this case is devoid of any evidence which would support a finding

of causation between claimant's alleged current condition of ill-being in his low back and the June 29, 2011, work accident. Accordingly, the Commission's decision on this issue was not against the manifest weight of the evidence.

¶ 45 B. Remaining Issues

¶ 46 On appeal, claimant also takes issue with the Commission's (1) denial of unpaid medical expenses related to the treatment of his DVT; (2) denial of TTD benefits for time off work related to his DVT; (3) failure to order a vocational rehabilitation plan and maintenance based on his inability to perform the duties required of an active duty police officer due to the treatment for his DVT; and (4) denial of penalties and fees based on its reliance on Dr. Karlsson's causation opinion relative to his DVT. Further, claimant notes that, while the Commission correctly determined the employer was due no credit for sick pay, its decision was based on its denial of TTD benefits. Claimant then argues that the employer is not entitled to credit for sick pay even after TTD benefits are awarded. We note that for claimant to prevail on any of his arguments, we would first have to find a causal connection between claimant's DVT and the June 29, 2011, work accident. However, as indicated, claimant's failure to address the Commission's finding of no injury to his right leg precludes us from considering causal connection and likewise prevents us from considering his remaining arguments.

¶ 47 CONCLUSION

¶ 48 For the reasons stated, we affirm the circuit court's judgment confirming the Commission's decision and remand for further proceedings pursuant to *Thomas*, 78 Ill. 2d 327, 399 N.E.2d 1322.

¶ 49 Affirmed and remanded.