2012 IL App (4th) 110413WC-U
NO. 4-11-0413WC
Order filed April 24, 2012

Filed 4/24/12

IN THE

APPELLATE COURT OF ILLINOIS

FOURTH DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

BRUCE HUMPHREY,	)	Appeal from the Circuit Court
	)	of McLean County.
Appellant,	)	
	)	
v.	)	No. 10-MR-341
	)	
ILLINOIS WORKERS' COMPENSATION COMMISSION, *et al*.,	)	
	)	Honorable
(East Lawn Memorial Gardens, Appellee).	)	Scott Drazewski,
	)	Judge, Presiding

JUSTICE HUDSON delivered the judgment of the court.

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

ORDER

Held: (1) Commission's finding that claimant failed to prove injuries arising out of and in the course of his employment as a result of repetitive trauma is not against the manifest weight of the evidence; (2) Commission's finding that claimant's current left elbow disability is not causally related to his employment is not against the manifest weight of the evidence; and (3) Commission's denial of medical expenses for treatment after claimant was found to have reached maximum medical improvement is not against the manifest weight of the evidence.

¶ 1 Claimant, Bruce Humphrey, filed three applications for adjustment of claim pursuant to the

Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq*. (West 2006)) seeking benefits from respondent, East Lawn Memorial Gardens. The first application alleged injuries to claimant's left arm, elbow, wrist, and hand as a result of a fall on December 14, 2003. The second and third applications alleged repetitive-trauma injuries to the left elbow and wrist with accident dates of August 11, 2005, and July 20, 2006, respectively. Following a hearing, the arbitrator determined that claimant sustained accidental injuries arising out of and in the course of his employment with respondent on December 14, 2003. However, the arbitrator did not find compensable either of the repetitive-trauma claims. Moreover, the arbitrator concluded that claimant failed to establish a causal connection between his employment and his current condition of ill-being. The arbitrator also denied claimant's request for certain medical expenses, finding that claimant had reached maximum medical improvement prior to the date the services for which claimant sought reimbursement were rendered.

¶ 2 The Illinois Workers' Compensation Commission (Commission) modified the date of maximum medical improvement, but otherwise affirmed and adopted the decision of the arbitrator and remanded the matter for further proceedings pursuant to *Thomas v. Industrial Comm'n,* 78 Ill. 2d 327 (1980). Thereafter, the circuit court of McLean County confirmed the decision of the Commission. On appeal, claimant raises three issues. First, he argues that the Commission's findings that he failed to establish accidental injuries arising out of his employment on August 11, 2005, and July 20, 2006, are against the manifest weight of the evidence. Second, he asserts that the Commission's finding that his current condition of ill-being is not causally related to his employment is against the manifest weight of the evidence. Third, he claims that the Commission's decision to

deny medical expenses is against the manifest weight of the evidence. We affirm.

I. BACKGROUND

¶ 3 Respondent operates a funeral home and cemetery. Between 1980 and 2007, claimant worked for respondent as a maintenance man. Claimant testified that due to the needs of the business his duties varied from day to day but they involved "all heavy manual labor." A job description provided by respondent was admitted into evidence. The job description lists various essential functions for claimant's position, including: (1) directing relatives and friends before, during and after funerals; (2) driving maintenance vehicles; (3) operating and maintaining heavy equipment; (4) transferring caskets; (5) doing mausoleum entombment; and (6) setting grave markers. The job description indicates that some of these functions involve lifting heavy objects, including granite weighing up to 400 pounds and caskets weighing up to 600 pounds. Claimant testified that most of the time he performed his duties with at least one coworker. Claimant was asked to describe how many times he would lift objects on an average day. He responded:

> "It depended on your schedule. Funerals, if they were your own funerals setting on [*sic*] vault equipment, tents, lowering devices, the vaults, you would remove the lid, you may have to help carry a casket from the road to the lowering device. There might be three, four people, sometimes two to carry it across the section.
>
> Then you have all the tear down, then you have to load dirt back up, dump it in the grave, scoop it, round, so it looks nice in the area. Usually every day you're carrying quite a bit.

> You know, every day was so different depending on your schedule of funerals, entombments, and then there would be people wanting their markers set. That's all done my hand [*sic*].
>
> We would have a cart a lot of times to lower the marker in the ground but once in a while you still had to remove it by hand and that's where you get your big pieces of granite and your bronze plates on top of that, so that adds to it.
>
> It's hard to describe every day because it's not a set pattern."

¶ 4 Claimant testified that on December 14, 2003, he was at work preparing to clean the sidewalks of ice and snow. Claimant was walking to the maintenance building when he slipped at a spot where pavement sloped near the building. Claimant testified that he fell "completely horizontal" and that he "came down" with his left arm underneath his body. Claimant testified that prior to December 14, 2003, he had not experienced any pain in his left arm, elbow, or wrist. Moreover, he related that, other than an incident after which he received stitches in his left wrist for a cut, he had not sought any medical treatment for his left arm before December 14, 2003. Claimant testified that although his arm "hurt" following the fall, he was able to complete his work shift. However, claimant testified that on the evening of the fall, his left arm "really started hurting and swelling." The next day, claimant advised his employer of the injury and he went to see his family physician. Claimant's physician referred him to Dr. Lawrence Nord, an orthopaedic doctor.

¶ 5 Dr. Nord first examined claimant on December 15, 2003. Dr. Nord diagnosed claimant with a left wrist navicular chip fracture and left elbow arthritis with loose bodies. Claimant was given a wrist orthotic and a prescription for Motrin and was instructed to avoid activities that aggravated

his condition. Claimant returned to Dr. Nord on December 22, 2003. Improvement was noted regarding left arm discomfort, although claimant complained of increased pain in the left wrist and elbow with activity. Decreased range of motion was noted in the left wrist and elbow. Motrin was continued, and claimant was instructed to wean himself from the orthotic as his discomfort resolves. Dr. Nord noted claimant would eventually need an arthrotomy of the left elbow to remove the loose bodies. On January 22, 2004, claimant returned to Dr. Nord. He complained of limited motion in the left elbow, but reported he could do his present job. The doctor authorized "[a]ctivities to tolerance with the left wrist and elbow, at this time." Claimant's prognosis was noted to be good in regards to the left wrist but guarded as to the left elbow. Claimant's work status was noted to be "[r]egular as tolerated."

¶ 6 Claimant reported that during his treatment with Dr. Nord he continued to work in the same position in which he was working prior to the injury, although he had to "figure ways *** to compensate to get [his] job done." Claimant added that he wore the brace while performing his duties.

¶ 7 Claimant testified that he began a course of treatment with Dr. J. Anthony Dustman on February 17, 2004. According to Dr. Dustman's notes, claimant "describe[d] an injury in December 2003 where he fell on the ice with kind of a blow to the arm and aggravated pain in his wrist area and also in his arm." Claimant reported that he had problems with his elbow prior to his injury. Dr. Dustman performed a physical examination and obtained X rays. The X ray of the left elbow showed about six loose bodies that were noted to be old. Degenerative changes were also noted throughout the left elbow. An examination and X ray of the right elbow demonstrated moderate

arthritic changes in addition to a loose body. Dr. Dustman opined the December 14, 2003, fall aggravated claimant's pre-existing condition. Dr. Dustman determined that claimant would eventually need a total elbow replacement. However, as claimant had been able to live with this condition, Dr. Dustman opted to treat claimant's condition as it became symptomatic rather than having him undergo immediate surgical intervention. Claimant followed up with Dr. Dustman on May 18, 2004. At that time, Dr. Dustman described claimant's condition as "tolerable." Dr. Dustman noted claimant's symptoms were not symptomatic enough to warrant surgery, and he recommended staying the course.

¶ 8 Claimant had sought no additional treatment for his left elbow for 15 months when he returned to Dr. Dustman's office on August 11, 2005. At that time, Dr. Dustman performed a physical examination and obtained X rays. He noted the left elbow had significant arthritis and the left wrist demonstrated early arthritis. Dr. Dustman told claimant that if he proceeded with a total elbow replacement, he would be restricted from performing manual labor.

¶ 9 Claimant then sought no treatment for an additional 11 months. He continued to work his regular job for respondent during this time. Claimant reported back to Dr. Dustman on July 20, 2006, reporting problems with his left elbow locking. Dr. Dustman performed an injection into the left elbow. Dr. Dustman reiterated that he was treating claimant symptomatically.

¶ 10 Claimant again had sought no additional treatment for 11 months when he returned to Dr. Dustman on June 26, 2007. At that time, Dr. Dustman noted significant arthritic changes in both elbows. Nevertheless, after reviewing claimant's job description, Dr. Dustman's only concern was about claimant lifting a 400-pound piece of granite alone or lowering a 600-pound casket alone.

However, he doubted that any single individual would be able to lift that type of weight regardless of his condition. Dr. Dustman determined that claimant would be able to perform all other duties, although he might have some difficulties due to the arthritis. Claimant followed up with Dr. Dustman on July 23, 2007. At that time, Dr. Dustman administered another injection to the left elbow.

¶ 11 On December 27, 2007, at respondent's request, Dr. Jerome Kraft examined claimant pursuant to section 12 of the Act (820 ILCS 305/12 (West 2006)) and prepared a report of his findings. Claimant told Dr. Kraft that he slipped on some ice at work on December 14, 2003, and fell directly on his left elbow. Claimant denied any injuries to or functional limitations of the left upper extremity prior to the fall. Claimant also told Dr. Kraft that he continued to work for respondent after the fall, but "self accommodate[d]" his activities. Dr. Kraft performed a physical examination and reviewed claimant's medical records. Dr. Kraft diagnosed: (1) blunt injury to the left elbow and wrist on December 14, 2003; (2) degenerative osteoarthritis with loose bodies, left elbow, condition pre-existing injury reported on December 14, 2003; (3) degenerative osteoarthritis, left wrist, old, pre-existing; and (4) degenerative osteoarthritis, right elbow, with associated loose bodies. Dr. Kraft estimated that claimant would have reached maximum medical improvement three to six months after the December 14, 2003, injury. He opined the accident of December 2003 was a temporary aggravation of claimant's pre-existing condition. He further opined that claimant's continuing problems represent a normal progression of the pre-existing degenerative osteoarthritis of the left elbow.

¶ 12 On August 18, 2008, Dr. Kraft prepared an addendum report after reviewing some additional medical records. Dr. Kraft stated that a recommended left elbow replacement bore "no direct relationship to the incident of December 14, 2003." Rather, he opined, the suggested surgery "is based on mechanical symptoms due to the pre-existing extensive degenerative osteoarthritis in the left elbow, loose bodies, and functional limited range of motion."

¶ 13 On September 11, 2008, Dr. Dustman prepared a letter in response to a request by claimant's counsel. In the letter, Dr. Dustman reiterated that claimant's arthritis predated his fall of December 14, 2003, but that the fall aggravated his condition. Dr. Dustman opined that although claimant's profession "would cause symptoms in the elbow from the arthritis," he thought that "there would be progression of this arthritis regardless of his job." In addition, Dr. Dustman stated that he concurred with the report of Dr. Kraft.

¶ 14 On March 10, 2009, at the request of claimant's attorney, Dr. Gregory Nicholson examined claimant. Dr. Nicholson performed a physical examination and reviewed X ray films. He diagnosed bilateral periarticular arthritis, left worse than right. He noted a pre-existing condition in the left elbow prior to the fall. He opined that the fall is not the cause of claimant's current elbow disability. He noted claimant would be in need of future treatment, but it would not be the consequence of the work related injury. Moreover, Dr. Nicholson opined that if claimant did have surgery on his elbow, a total replacement was not needed. Rather, he recommended a debridement. In a letter to claimant's attorney dated June 16, 2009, Dr. Nicholson explained that the reason the December 14, 2003, fall was a "non-factor" in claimant's need for further treatment is because he had pre-existing periarticular arthritis. Dr. Nicholson stated that while the fall "stirred up a vulnerable elbow," the

pain claimant experiences is not due to the fall but to the degenerative process itself. Dr. Nicholson also reiterated that the need for any surgical intervention is not the result of the fall in December 2003 and is not related to work activity.

¶ 15 At the September 14, 2009, arbitration hearing, claimant's attorney indicated that claimant has not sought medical treatment concerning his left elbow and wrist since his visit to Dr. Dustman on July 23, 2007. Claimant testified that since he last treated with Dr. Dustman, the range of motion of his left elbow has diminished and that the strength of his left arm has decreased. He also testified that he experiences a "dull ache 90 percent of the time" in his left elbow. Claimant indicated that he seeks authorization for surgery to the left elbow as recommended by Dr. Nicholson.

¶ 16 Based on the foregoing evidence, the arbitration concluded that claimant sustained accidental injuries arising out of and in the course of his employment with respondent on December 14, 2003. However, the arbitrator found that claimant failed to prove that he sustained repetitive-trauma injuries arising out of and in the course of his employment with respondent on August 11, 2005, and July 20, 2006. Citing the chain of events, the records of claimant's treating physicians, and the opinions of Dr. Kraft and Dr. Nicholson, the arbitrator also determined that claimant failed to prove that his current condition of ill-being is causally related to the accident of December 14, 2003. Finally, the arbitrator found that claimant would have reached maximum medical improvement on or about August 11, 2005. Thus, she concluded that respondent is not liable for a medical bill from Dr. Dustman for treatment rendered after that date.

¶ 17 The Commission modified the decision of the arbitrator to reflect that claimant established causation as to the left wrist and elbow conditions through January 22, 2004, the date of claimant's

last visit to Dr. Nord. In all other respects, the Commission affirmed the decision of the arbitrator. The Commission remanded the matter for further proceedings pursuant to *Thomas*, 78 Ill. 2d 327. Upon judicial review, the circuit court of McLean County confirmed the decision of the Commission. Claimant timely appealed.

¶ 18 II. ANALYSIS

¶ 19 A. Repetitive-Trauma Claims

¶ 20 On appeal, claimant first argues that the Commission's findings that he failed to prove repetitive-trauma injuries arising out of and in the course of his employment on either August 11, 2005, or July 20, 2006, are against the manifest weight of the evidence. Claimant contends that his continued work for respondent after the initial date of injury in December 2003, which involved repetitive, heavy lifting, aggravated his condition and contributed to the need for ongoing treatment, including surgery. Respondent maintains that there is no medical evidence which supports a repetitive-trauma theory of recovery.

¶ 21 Initially, we note that Illinois Supreme Court Rule 341(h)(7) (eff. July 1, 2008) requires the appellant's brief to include argument "which shall contain the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on. Evidence shall not be copied at length, but reference shall be made to the pages of the record on appeal or abstract, if any, where evidence may be found." Here, claimant does not cite any legal authority in support of his argument. Further, he does not consistently cite to the pages of the record where evidence may be found. As a consequence, we find that this issue has been forfeited for purposes of appeal. See *People v. Sprind*, 403 Ill. App. 3d 772, 779 (2010); *TTC Illinois, Inc./Tom Via Trucking v. Workers'*

Compensation Comm'n, 396 Ill. App. 3d 344, 355 (2009). Forfeiture notwithstanding, we do not find claimant's argument persuasive.

¶ 22 A claimant who suffers a repetitive-trauma injury must meet the same standard of proof as an employee who suffers a sudden injury. *City of Springfield v. Workers' Compensation Comm'n*, 388 Ill. App. 3d 297, 313 (2009). To establish a compensable injury under the Act, a claimant must show by a preponderance of the evidence that his injury arose out of and in the course of his employment. 820 ILCS 305/2 (West 2006); *Cassens Transport Co. v. Industrial Comm'n*, 262 Ill. App. 3d 324, 330 (1994). "In the course of employment" refers to the time, place, and circumstances surrounding the injury. *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 203 (2003). An injury is said to "arise out of" one's employment if 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. *Caterpillar Tractor Co. v. Industrial Comm'n*, 129 Ill. 2d 52, 58 (1989). In cases relying on the repetitive-trauma concept, a claimant generally relies on medical testimony demonstrating a causal connection between the work performed and the employee's disability. *Williams v. Industrial Comm'n*, 244 Ill. App. 3d 204, 209 (1993). The claimant must establish that the injury is work related and not the result of the normal degenerative aging process. *Peoria County Belwood Nursing Home v. Industrial Comm'n*, 115 Ill. 2d 524, 530 (1987); *Edward Hines Precision Components v. Industrial Comm'n*, 356 Ill. App. 3d 186, 194 (2005). Whether an injury arises out of and in the course of one's employment is a question of fact for the Commission, and its determination will not be set aside on appeal unless it is against the manifest weight of the evidence. *City of Springfield*, 388 Ill. App. 3d at 312. A finding is against the manifest weight of the evidence

only if the opposite conclusion is clearly apparent. *Swartz v. Industrial Comm'n*, 359 Ill. App. 3d 1083, 1086 (2005).

¶ 23 In support of his claim that he sustained repetitive-trauma injuries arising out of and in the course of his employment with respondent, claimant relies on the records and reports of Dr. Nord, Dr. Dustman, and Dr. Kraft. Citing to selective passages from these documents, claimant insists that each of these doctors "noted that his work aggravated his condition, and each of them addressed his need to limit the heavy-duty work that he was doing in some manner." Initially, claimant refers to Dr. Nord's progress notes of December 15, 2003, and December 22, 2003, which show that claimant's pain is "relieved by rest" and that he should avoid activities which aggravate his condition. However, claimant does not explain how this establishes a repetitive-trauma injury arising out of an in the course of his employment, and it is not apparent to us. We note that the reason claimant saw Dr. Nord was for treatment to his left elbow following the fall. It is undisputed that the December 14, 2003, fall arose out of an in the course of his employment. It would not be unusual for pain from a traumatic accident to be relieved by rest or for a doctor to recommend to a patient that he refrain from activities that aggravate any discomfort. Moreover, there is no reference to any repetitive-trauma complaints in Dr. Nord's records. In fact, at claimant's last appointment in January 2004, Dr. Nord noted that claimant "[s]eems able to do his present job, at this time, which is not too stressful to the left upper extremity." At that time, Dr. Nord authorized claimant to return to work "as tolerated" with no specific limitations. Thus, we fail to see how Dr. Nord's records support a finding of a repetitive-trauma injury arising out of and in the course of claimant's employment.

¶ 24 Claimant also refers to the records of Dr. Dustman and the reports of Dr. Kraft. Claimant notes that in his letter of September 11, 2008, Dr. Dustman stated that "[a]lthough the continued hard work would cause symptoms in the elbow from the arthritis, I think there would be progression of this arthritis regardless of his job." Claimant further cites language in Dr. Kraft's addendum of August 18, 2008, in support of his repetitive-trauma claim. However, claimant reads these passages in isolation, ignoring other relevant evidence. Our reading of the record indicates that, at best, the evidence was conflicting as to whether there was a repetitive-trauma injury.

¶ 25 In the addendum, Dr. Kraft was asked to respond to two specific questions: (1) whether the surgery to the left elbow would be related to the accident of December 14, 2003, and the basis of that opinion and (2) whether such treatment regardless of its causal relationship to claimant's employment would be reasonable and necessary. In answering the former question, Dr. Kraft did state that "the incident of 12/14/03 and *apparently subsequent claims* of August 11, 2005, and July 20, 2006, in [his] opinion, have simply resulted in an exacerbation of pre-existing conditions." (Emphasis added.) However, in reaching this conclusion, Dr. Kraft merely presumed that claimant's work activities caused an aggravation or acceleration to claimant's left elbow on August 11, 2005, or July 20, 2006, because he was provided with two additional workers' compensation claims in which claimant alleged injuries on those dates due to his work activities. Moreover, Dr. Kraft ultimately concluded that claimant's left elbow pathology "is essentially degenerative osteoarthritis, a condition of which [*sic*] is noted to be progressive in nature." He further stated that although claimant had complained of left elbow and wrist discomfort during the course of his employment, "a direct cause/effect work relationship has not been established." Dr. Dustman concurred in Dr.

Kraft's findings. Similarly, and although not cited by claimant, Dr. Nicholson did not reference any type of repetitive-trauma injury. He concluded that any ongoing symptoms were not due to any work activity but to the "natural consequence" of the degenerative arthritis. For his part, claimant testified that his work did not involve a "set pattern" of activities.

¶ 26 The foregoing demonstrates that the Commission was presented with conflicting evidence regarding whether claimant's ongoing symptoms were caused by the repetitive nature, if any, of his work. The Commission resolved this dispute in respondent's favor. Given the Commission's role in resolving factual disputes (see *Teska v. Industrial Comm'n*, 266 Ill. App. 3d 740, 741 (1994)), we cannot say that an opposite conclusion is clearly apparent. Accordingly, we affirm the Commission's finding that claimant failed to establish repetitive-trauma injuries arising out of and in the course of his employment on August 11, 2005, and July 20, 2006.

¶ 27 B. Current Condition of Ill-being

¶ 28 We next address claimant's contention that the Commission erred in finding that his current condition of ill-being is not causally related to his December 14, 2003, fall.[1] According to claimant, the evidence establishes that his left elbow complaints commenced immediately after the fall, that his symptoms are ongoing, and that his left elbow requires surgical intervention. Respondent replies

[1] Claimant also contends that his current condition of ill-being is causally related to his repetitive-trauma claims. However, having affirmed the Commission's finding that claimant failed to establish repetitive-trauma injuries arising out of and in the course of his employment on August 11, 2005, and July 20, 2006, we summarily reject this contention.

that the medical evidence supports a finding that the current condition of claimant's left elbow is attributable solely to his degenerative arthritis, which was neither caused, aggravated, nor accelerated by the accident of December 14, 2003.

¶ 29 Employers take their employees as they find them. *St. Elizabeth's Hospital v. Workers' Compensation Comm'n*, 371 Ill. App. 3d 882, 888 (2007). To be compensable under the Act, one's employment need not be the sole cause or even the primary cause of his condition of ill-being, it need only be *a* causative factor. *Tower Automotive v. Workers' Compensation Comm'n*, 407 Ill. App. 3d 427, 434 (2011). Moreover, a preexisting condition does not prevent recovery if the preexisting condition was aggravated or accelerated by the claimant's employment. *Tower Automotive*, 407 Ill. App. 3d at 434. "Thus, even though an employee has a preexisting condition that may make him or her more vulnerable to injury, recovery will not be denied where the employee can show that a work-related condition aggravated or accelerated the preexisting disease such that the employee's current condition of ill-being can be said to be causally related to conditions in the workplace and not merely the result of a normal degenerative process of the preexisting condition." *Bernardoni v. Industrial Comm'n*, 362 Ill. App. 3d 582, 596-97 (2005). Whether a causal connection exists between a claimant's condition of ill-being and his employment is a question of fact for the Commission. *Bernardoni*, 362 Ill. App. 3d at 597. It is the function of the Commission to decide questions of fact and causation, to judge the credibility of witnesses, and to resolve conflicting medical evidence. *Teska*, 266 Ill. App. 3d at 741. The Commission's factual findings will not be disturbed on review unless they are against the manifest weight of the evidence. *Ming Auto*

Body/Ming of Decatur, Inc. v. Industrial Comm'n, 387 Ill. App. 3d 244, 257 (2008). A decision is against the manifest weight of the evidence only if an opposite conclusion is clearly apparent. *Will County Forest Preserve District v. Workers' Compensation Comm'n*, 2012 IL App (3d) 110077WC, ¶ 15.

¶ 30 It is undisputed that, at the time of the fall, claimant suffered from degenerative arthritis in the left elbow. The Commission found that the fall aggravated claimant's preexisting condition, but that the aggravation resolved by January 22, 2004. As such, the Commission determined that claimant's ongoing complaints and his need for surgery were not attributable to his employment. An injured employee is said to reach maximum medical improvement when his condition has stabilized as far as the permanent character of the injury will permit. *Interstate Scaffolding, Inc. v. Workers' Compensation Comm'n*, 236 Ill. 2d 132, 142 (2010). The Commission appears to have set the date of maximum medical improvement as January 22, 2004, because that was the last day claimant saw Dr. Nord. We find the Commission erred in so finding. There is no indication in Dr. Nord's progress notes that claimant had reached maximum medical improvement on that date. The only physician who expressly discussed the date of maximum medical improvement was Dr. Kraft. In his initial report, Dr. Kraft opined that as a result of the December 14, 2003, fall, claimant suffered a temporary partial impairment to the left upper extremity. Dr. Kraft estimated that claimant would have reached maximum medical improvement three to six months after the fall. In fact, after claimant last saw Dr. Nord in January 2004, he continued active medical treatment with Dr. Dustman in February and May 2004. After May 2004, claimant did not seek additional treatment until August

2005. Based on the foregoing, we modify the decision of the Commission to find that claimant reached maximum medical improvement in May 2004. This date not only coincides with the time claimant elected to cease his initial course of treatment with Dr. Dustman, it falls within the period of time Dr. Kraft would have expected claimant's condition to have stabilized.

¶ 31 Despite our finding that the Commission erred in setting the date of maximum medical improvement, we conclude that the Commission's finding that claimant's current condition of ill-being is not causally related to his employment is supported by the manifest weight of the evidence. The Commission based its finding on the chain of events, the records of claimant's treating physicians and the opinions of Dr. Kraft and Dr. Nicholson. As noted above, it is undisputed that claimant suffered from degenerative arthritis of his left upper extremity. At arbitration, claimant denied experiencing any pain with or seeking any medical treatment for this condition before the fall. However, when Dr. Nord, claimant's first treating physician, saw claimant the day after the fall, he noted a "[l]oss of motion and crepitus in the left elbow, *possibly from an old injury*. Possible aggravation, at this time." (Emphasis added.) Further, while Dr. Nord noted "greater than 50% loss of motion of the left elbow," he attributed this not to the fall, but to "underlying osteoarthritic changes." Further, claimant told Dr. Dustman that he did have problems with his left elbow prior to December 2003. After examining claimant and reviewing X rays, Dr. Dustman opined that the fall aggravated claimant's preexisting condition. Claimant actively sought medical treatment with Dr. Dustman until May 2004. Thereafter, he saw Dr. Dustman sporadically, with visits in August 2005, July 2006, June 2007, and July 2007. In his September 11, 2008, Dr. Dustman reiterated that

the fall aggravated claimant's preexisting condition. He additionally stated that although claimant's work activities "would cause symptoms in the elbow from the arthritis, I think there would be progression of this arthritis regardless of his job." Dr. Dustman also concurred in the report of Dr. Kraft.

¶ 32 In his initial report, Dr. Kraft stated that the fall resulted in a "temporary partial impairment to the left upper extremity." However, Dr. Kraft expected claimant to have reached maximum medical improvement three to six months after the fall, and he attributed claimant's ongoing symptoms to the "normal progression of [the] pre-existing degenerative osteoarthritic process involving the left elbow." Dr. Kraft also stated that while claimant does have a permanent partial impairment to the left elbow, the impairment and any treatment recommended therefor is also due to the preexisting condition. In his addendum report, Dr. Kraft opined that the recommended surgery of the left elbow bore "no direct relationship to the incident of December 14, 2003." He explained that the "suggested intended surgery is based on mechanical symptoms due to the pre-existing extensive degenerative osteoarthritis in the left elbow, loose bodies, and functional limited range of motion." Similarly, Dr. Nicholson found that claimant had arthritis prior to the fall. He opined that while the fall "stirred up a vulnerable left elbow," it did not the cause of claimant's current elbow disability. Rather, Dr. Nicholson attributed claimant's current symptoms to the degenerative process itself. Dr. Nicholson added that although claimant will require future treatment to his left elbow, it is not a consequence of the work-related injury.

¶ 33 We find that the record contains a sufficient evidentiary basis for the Commission's determination that the current condition of claimant's left elbow and his need for surgery is not causally related to the fall of December 14, 2003. Based on the foregoing evidence, the Commission could have reasonably concluded that claimant was symptomatic prior to the December 14, 2003, fall, that the fall temporarily aggravated claimant's arthritis, that the temporary aggravation resolved, and that claimant's ongoing symptoms of the left elbow were attributable solely to his preexisting degenerative condition. Accordingly, we affirm the Commission's finding.

¶ 34 C. Medical Expenses

¶ 35 Lastly, claimant contends that the Commission erred in finding that respondent was not liable for certain medical expenses billed by Dr. Dustman. According to claimant, "[w]hat the doctors have labeled as a temporary aggravation of a pre-existing condition, [he] would label as an ongoing aggravation of a pre-existing condition." Respondent replies that the Commission's finding should be affirmed as claimant failed to establish that his ongoing symptoms are causally related to his employment.

¶ 36 Section 8(a) of the Act (820 ILCS 305/8(a) (West 2006)), which governs medical expenses, requires an employer to pay for "all the 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." Thus, the employee is only entitled to recover for those medical expenses which are reasonable and causally related to his industrial accident. *Zarley v. Industrial Comm'n*, 84 Ill. 2d 380, 389 (1981); *F&B*

Manufacturing Co. v. Industrial Comm'n, 325 Ill. App. 3d 527, 534 (2001). The employee bears the burden of proving, by a preponderance of the evidence, his entitlement to medical expenses. *Westin Hotel v. Industrial Comm'n*, 372 Ill. App. 3d 527, 546 (2006). Because the question of whether medical treatment is causally related to a compensable injury is one of fact to be determined by the Commission, its finding on the issue will not be reversed on review unless it is against the manifest weight of the evidence. *Westin Hotel*, 372 Ill. App. 3d at 546.

¶ 37 In this case, we have concluded that the December 14, 2003, fall temporarily aggravated claimant's arthritis, that the temporary aggravation resolved by May 2004, and that claimant's ongoing symptoms of the left elbow and treatment therefor were attributable solely to his preexisting condition. Since the arbitrator noted that the disputed medical expenses were incurred for treatment after August 11, 2005, *i.e.*, after the date of maximum medical improvement, it necessarily follows that they are not causally related to his industrial accident. Accordingly, we find that the Commission's decision on this matter is not contrary to the manifest weight of the evidence.

¶ 38 III. CONCLUSION

¶ 39 For the reasons set forth above, we modify the date of maximum medical improvement, but otherwise affirm the judgment of the circuit court of McLean County, which confirmed the decision of the Commission. This cause is remanded for further proceedings pursuant to *Thomas*, 78 Ill. 2d 327.

¶ 40 Affirmed and remanded.