2023 IL App (3rd) 220471WC-U

Workers' Compensation
Commission Division
Order Filed: October 31, 2023

No. 3-22-0471WC

IN THE

APPELLATE COURT OF ILLINOIS

THIRD DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

HARRAH'S ILLINOIS CORPORATION,	)	Appeal from the
	)	Circuit Court of
	)	Will County.
Appellant,	)	
	)	
v.	)	
	)	No. 21-MR-1897
	)	
THE ILLINOIS WORKERS' COMPENSATION COMMISSION *et al.*	)	
	)	Honorable
	)	John C. Anderson,
(Margaret Webb, Appellee).	)	Judge, Presiding.

JUSTICE BARBERIS delivered the judgment of the court.
Presiding Justice Holdridge and Justices Hoffman, Cavanagh, and Mullen concurred in the judgment.

¶ 1 *Held:* Commission's original decision was not against the manifest weight of the evidence, and as such, the circuit court erred when it set aside the Commission's decision and remanded matter.

¶ 2 I. Background

¶ 3 On August 15, 2007, claimant, Margaret Webb, filed an application for adjustment of claim under the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2006)) against respondent, Harrah's Illinois Corporation (employer), seeking benefits for "[s]erious and permanent" injuries to her "body as a whole" on July 8, 2007, while working for employer as a buffet server. On October 30, 2007, claimant filed an amended application for adjustment of claim, alleging July 7, 2007, as the accident date. On April 8, 2016, at the outset of the arbitration hearing, claimant's counsel requested, with no objection by employer's counsel, to amend claimant's October 30, 2007, amended application to reflect an accident date of July 9, 2007.

¶ 4 At all times relevant, claimant was employed by employer as a buffet server. Her duties included cleaning tables, filling water cups, carrying heavy plates and bus tubs, and lifting five-gallon ice buckets overhead. On July 9, 2007, claimant bent over to put plates down when she felt pain across her chest and back. Claimant informed her supervisor of her pain, left work approximately 15 minutes later, and received transportation to the emergency room (ER) shortly thereafter.

¶ 5 The following information details claimant's ER visit and subsequent hospital admission. A medical note titled, "Nurse's Notes," dated July 9, 2007, at 1:08 p.m., stated claimant's presenting complaint as "chest pain with shortness of breath onset one hour pta." A nurse's assessment at 1:52 p.m. demonstrated that claimant "[c]omplains of pain in mid-sternal area[.] Pain currently is 8 out of 10 on a pain scale." Next, a medical note titled, "Physician Documentation," dated July 9, 2007, at 3:28 p.m., indicated that claimant experienced sharp chest pain in the morning. Dr. Yatin Shah, an internal medicine physician, documented the following at 3:29 p.m.: "The history from nurse[']s notes was reviewed and I generally agree with what's documented up to this point."

¶ 6 On July 9, 2007, claimant was admitted to the hospital at 4:52 p.m. The note titled, "MED/SURG ADMISSION NURSING HISTORY, dated July 9, 2007, at 5:00 p.m., indicated that

claimant experienced chest and back pain on a pain scale of 6 out of 10. Additional documentation titled, "Admit Assessment – MED SURG.," dated July 9, 2007, at 5:10 p.m., indicated that claimant was admitted for chest pain and experienced back pain on a pain scale of 7 out of 10. Moreover, documentation titled, "Admit Assessment – MED SURG.," dated July 9, 2007, at 7:33 p.m., indicated that claimant was admitted for chest and back pain. At that time, claimant experienced back pain on a pain scale of 2 out of 10.

¶ 7 Next, a medical record titled, "Report of Consultation," dated July 10, 2007, and written by Dr. Ramalingappa Mukunda, an internal medicine physician, stated that claimant "was sitting at work" yesterday when she "developed retrosternal and chest pressure at approximately 11:00 a.m." Dr. Mukunda also noted that "[t]he day before when she was at work[,] she lifted heavy plates and experienced significant back pain[,] and it was difficult for her to sleep with the significant back pain." Dr. Mukunda believed claimant presented with atypical chest discomfort and noted that claimant "did have back pain yesterday." Additionally, Dr. Mukunda's medical record titled, "History and Physical Examination," dated July 10, 2007, indicated that claimant complained of chest pain that "occurred in the morning yesterday [while] she was at work waitressing." Dr. Mukunda's notes further demonstrated that claimant "complains of back pain for about 3 days," and that "she was at work, she was lifting heavy plates[,] and she felt the pain in her left side of the lower back."

¶ 8 On October 23, 2007, claimant presented to Dr. Claudia Vera, a primary care physician, complaining of severe back pain. Dr. Vera's notes indicated that claimant presented for "low back pain, work related injury from greater than 1 yr. ago." Dr. Vera later opined in a January 17, 2008, letter that the "July, 2007" injury caused claimant's current symptoms of severe low back pain with radiation to both legs.

¶ 9 On January 31, 2008, claimant underwent a lumbar spine MRI following Dr. Vera's recommendation. The MRI revealed a facet arthropathy bilaterally at L5-S1 with resultant moderate to severe bilateral foraminal stenosis and mild central spinal stenosis.

¶ 10 On February 7, 2008, claimant presented to Dr. Cary Templin, an orthopedic spine surgeon, complaining of lumbar pain radiating to her buttocks and low back. According to Dr. Templin, claimant's MRI demonstrated significant facet hypertrophy and foraminal stenosis.

¶ 11 On February 27, 2008, Dr. Lawrence Lieber, a section 12 examiner and orthopedic specialist, performed an independent medical evaluation (IME) of claimant. Dr. Lieber prepared a report and accompanying letter, indicating that claimant "state[d] that [her low back pain] began approximately one or two years prior to the July 8, 2007[,] event and was concurrent at the time of the work-related injury." Dr. Lieber opined that claimant "certainly may have developed low back pain in association with her work activities, however[,] it appears that the majority of her symptoms may be preexisting and degenerative in nature due to her significant obesity." Dr. Lieber opined that claimant's current complaints appeared to be chronic in nature with "no permanency in association with the work event." Dr. Lieber noted that he did not review claimant's January 31, 2008, MRI and accompanying report.

¶ 12 On March 18, 2008, Dr. Lieber provided a supplemental report. After reviewing claimant's January 31, 2008, MRI and Dr. Templin's notes, Dr. Lieber stated that there "appears to be no direct relationship to the [claimant's] current low back complaints and that of the isolated work-related injury of July 9, 2007." According to Dr. Lieber, claimant's symptoms resulted from a preexisting condition of degenerative chronic abnormalities, not a work-related injury.

¶ 13 On June 3, 2008, claimant presented to Dr. Templin for a follow-up visit for back pain. Dr. Templin's progress note indicated that claimant "has an aggravation of a chronic condition through her lifting injury."

¶ 14 On September 15, 2008, claimant underwent a functional capacity evaluation (FCE) with Dr. Zubin Tantra, a physical therapist. Dr. Tantra opined that claimant could return to work as a waitress with lifting and carrying restrictions. Dr. Tantra also restricted claimant from walking more than a half mile continuously, engaging in balancing activities that required crouching and walking, and stooping.

¶ 15 On November 18, 2008, the evidence deposition of Dr. Lieber took place. Dr. Lieber confirmed that claimant informed him that she injured her back while lifting dishes on July 8, 2007. Dr. Lieber diagnosed claimant with low back syndrome that was "most likely *** chronic in nature, but I felt may have been aggravated by this work-related injury." Dr. Lieber opined that, based on the February 27, 2008, IME, and a review of claimant's medical records, "there showed no direct relationship to the [claimant's] low back complaints and that of the work-related injury of July 9, 2007." Dr. Lieber further testified that, in his opinion, there was "no objective evidence of any isolated injury in the July 2007 event." Dr. Lieber confirmed that claimant treated with Dr. Vera for two weeks after the accident; however, she did not receive further treatment until September 12, 2007, when claimant likely experienced pain related to her preexisting degenerative disease. According to Dr. Lieber, this gap in treatment demonstrated that the July 2007 event was "certainly minor, and probably only caused her discomfort for a period of two weeks or so." On cross-examination, Dr. Lieber confirmed that claimant had degenerative disk disease unrelated to the July 2007 work accident and likely aggravated by claimant's obesity.

¶ 16 On August 26, 2009, claimant presented to Dr. Anthony Rivera, a pain management specialist, complaining of back pain. Dr. Rivera opined that claimant suffered a work injury in July 2007, which caused claimant's pain issues. Dr. Rivera also stated that "[a]ll the treatments and procedures that she has undergone since then has been medically necessary and reasonable."

¶ 17 On April 8, 2016, the arbitrator held an arbitration hearing. Claimant testified that, prior to July 9, 2007, she often experienced pain during work that continued into the following workday. Her back pain, however, intensified as a result of the accident on July 9, 2007. Claimant denied experiencing chronic back pain prior to working for employer. Rather, she testified that she developed chronic back pain from bending over and lifting plates and other objects while at work for employer. Claimant testified that treatment providers showed more concern for her chest pain than back pain at the ER.

¶ 18 On cross-examination, claimant acknowledged that her attorney amended the accident date from July 7, 2007, to July 9, 2007, however, she testified that she went to the hospital "on the exact same day that" she experienced non-radiating chest pain with shortness of breath. Claimant, denying that she injured herself while sitting down, testified that the July 10, 2007, medical consultation report was incorrect. Claimant testified that she injured herself when she bent down with heavy plates in her hands that weighed four or five pounds. Claimant confirmed that her ER medical records from July 9, 2007, and July 10, 2007, indicated that she had back pain three days earlier on July 6, 2007, stating: "I had been hurting my back even before then but that's when it got more real hurt was on the day that I went to the emergency room." Claimant testified that she "reported [her back pain] to the people of Harrah's" prior to July 9, 2007, and also notified her supervisor, Terry, of her back pain on July 6, 2007, and July 8, 2007. Claimant admitted that she never filled out an accident report at any time. Claimant returned to work for employer approximately one week after the accident; however, employer terminated claimant on July 22 or July 24, 2007, after claimant engaged in a physical altercation with a coworker at work.

¶ 19 Following the hearing, the arbitrator found that claimant failed to prove she sustained an accident that arose out of and in the course of her employment and denied benefits. Specifically, the arbitrator determined that claimant's ER medical records failed to corroborate claimant's

testimony with regard to the mechanism of injury. In reviewing claimant's medical records, the arbitrator noted that the July 9, 2007, medical record titled, "Nurse's Notes," failed to mention that claimant complained of injury to her lower back or any history of bending down and carrying plates at the time of injury. Second, the arbitrator stated that the medical record titled, "Physician Documentation," dated July 9, 2007, failed to mention any history of a work-related incident occurring on July 9, 2007. Next, the arbitrator determined that claimant's medical record titled, "History and Physical Examination," dated July 10, 2007, did not corroborate claimant's testimony with regard to the mechanism of injury, given that claimant did not testify to bending down while holding plates in her hands on July 6, 2007. Rather, the arbitrator believed that claimant lifted heavy plates three days prior to her July 9, 2007, ER visit, which was inconsistent with her testimony. Lastly, the arbitrator determined that Dr. Mukunda's "Report of Consultation," dated July 10, 2007, failed to corroborate claimant's testimony.

¶ 20 According to the arbitrator, ER treatment providers examined claimant for chest complaints that claimant experienced while sitting down at work on July 9, 2007. The medical records did not corroborate claimant's testimony that she injured herself while bending down with heavy plates in her hands. As such, the arbitrator determined that claimant's complaints of back pain predated the alleged July 9, 2007, accident date. Claimant filed a petition for review of the arbitrator's decision before the Commission.

¶ 21 On March 3, 2017, the Commission affirmed and adopted the arbitrator's decision. Claimant sought judicial review of the Commission's decision in the circuit court of Will County.

¶ 22 On December 1, 2017, the circuit court set aside the Commission's decision and remanded the case to the Commission for further proceedings. In reversing, the court reasoned that, although various health care providers recorded varying dates of onset of claimant's back pain, claimant testified consistently that she experienced an acute episode of back pain attributable to claimant's

work duties of heavy lifting and received treatment for both chest and back pain. Additionally, the court noted that claimant followed up with multiple health care providers over the course of several months for lumbar spine complaints, stating:

> "Each treating doctor that examined [claimant] related her back pain and need for treatment to the accident at work. In addition, Defendant's Section 12 medical examiner admitted that an accident occurred at work based upon his own review of the medical records in this case. There is no contrary evidence.
>
> ***
>
> Every opinion of every doctor involved in this case is that her work activities caused her increase in back pain."

The court concluded that claimant suffered an accident that arose out of and in the course of her employment, and as a result of this injury, claimant was totally disabled from pursuing any meaningful work. Accordingly, the court determined the Commission's decision against the manifest weight of the evidence and remanded the case to the Commission for a determination of benefits.[1]

¶ 23 On July 7, 2021, the Commission issued its decision on remand stating it was bound by the circuit court's order reversing the Commission's decision and finding claimant totally disabled from pursuing any meaningful work. Contrary to its earlier determination, the Commission found claimant sustained an accident arising out of and in the course of her employment. Specifically, the Commission noted that Drs. Templin and Rivera causally connected claimant's low back condition to the July 2007 work accident, while Dr. Lieber, the section 12 examiner, disagreed. The Commission then determined the benefits and amounts due to claimant.[2] On July 22, 2021, employer sought judicial review of the Commission's decision on remand in the circuit court.

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[1] This court dismissed employer's previous appeal for lack of jurisdiction, finding the circuit court's December 1, 2017, order was not final and appealable. See *Webb v. Illinois Workers' Comp.*, 2018 IL App (3d) 170859-WC (unpublished order under Illinois Supreme Court Rule 23).

[2] Specific to this appeal, the Commission ordered employer to pay claimant PTD benefits of $430.69 per week for life, commencing on April 9, 2016, pursuant to section 8(f) of the Act (820 ILCS 305/8(f) (West 2020)).

¶ 24 On October 20, 2021, claimant filed a motion to quash summons and dismiss employer's application for judicial review for want of jurisdiction. Claimant argued that counsel for employer failed to timely file a written request for summons in compliance with section 19(f)(1) of the Act (820 ILCS 305/19(f)(1) (West 2020)). Claimant specifically argued that counsel for employer's "complete failure to provide the court with the email address for [claimant or claimant's] coun[se]l makes issuance of summons and notice impossible, and would therefore deprive this Honorable Court of jurisdiction." According to claimant, "the relevant 'address' is the email address of the party to be served, as service is done electronically via email." Despite the fact that counsel for employer included the correct physical addresses for claimant and counsel for claimant, claimant argued this "is of no importance as the notice was not mailed to either party," and the mailing address for the Commission was incorrect. Claimant further contended that, "[h]aving received no notice of appeal, [counsel for claimant] emailed attorney for Plaintiff, Dennis Noble, on 8/20/21, stating, 'I thought you were filing an appeal. What happened?' Mr. Noble replied that he had filed." Claimant asserted "it would be **impossible** for the Court to serve the parties, as, on information and belief, Mr. Noble failed to provide the Court with the necessary email addresses." (Emphasis in original.). Accordingly, claimant argued that the summons issued by the circuit court clerk was "defective and without legal effect." Based on the foregoing, claimant argued that the circuit court lacked sufficient information to properly notify claimant and counsel for claimant of the pending appeal.

¶ 25 In response, employer argued that counsel for claimant received electronic notice and e-service through the Commission's CompFile system on July 21, 2021. Specifically, employer asserted that counsel for claimant received email notice of employer's notice of intent to file for review in the circuit court. Employer further argued that he "e-filed [employer's] appeal via Odyssey File and Serve with the Will County Circuit Court on July 22, 2021." That same day, the

circuit court issued summonses to the Commission, claimant, and counsel for claimant to the mailing addresses listed on employer's timely request for summons. Employer admitted that the summonses were returned to the circuit court as undeliverable on July 27, 2021. Subsequently, certified mail sent to claimant was returned to the court as undeliverable on August 10, 2021. On August 20, 2021, the circuit clerk informed counsel for employer that the summonses and certified mail were returned as "unsigned/undelivered." Counsel for employer filed alias summonses for a second attempt at service on August 24, 2021, which were not returned as undelivered. Three days later, claimant returned the signed certified mailing card. Accordingly, employer argued that it strictly or substantially complied with section 19(f)(1) of the Act.

¶ 26 On December 13, 2021, claimant filed a response. Claimant acknowledged that counsel for claimant received electronic notice and e-service through the Commission's CompFile on July 21, 2021; however, counsel for employer failed to provide email addresses for claimant and counsel for claimant, which "deprived the Circuit Court the ability to send the summons and other documents necessary to perfect the appeal." Moreover, claimant argued that employer failed to address that employer listed the wrong address for the Commission and show that employer sent timely notice via mail to counsel for claimant.

¶ 27 On February 25, 2022, following a hearing via Zoom, the circuit court denied claimant's motion to quash summons and dismiss application for judicial review for want of jurisdiction. The court set a briefing schedule.

¶ 28 On August 8, 2022, following an agreed order to amend and extend the briefing schedule, employer filed a motion to set aside the Commission's decision on remand. Two days later on August 10, 2022, the circuit court denied employer's motion to set aside for want of prosecution after failing to appear. On September 8, 2022, employer filed a motion to vacate the court's dismissal for want of prosecution, which the court granted on September 20, 2022.

¶ 29 On October 12, 2022, the circuit court denied employer's motion to set aside the Commission's decision. A docket entry from that day demonstrates that no parties appeared for the hearing. The court ordered all parties to appear for a status hearing "to discuss what, if anything, remains to be done on the case." The court set a status hearing for November 1, 2022.

¶ 30 On November 1, 2022, the circuit court held a hearing on employer's motion to set aside the Commission's decision on remand. Following the hearing, the court entered an agreed order denying employer's motion to set aside the Commission's decision on remand and confirming the Commission's July 7, 2021, decision on remand. Employer filed a notice of appeal on November 28, 2022.

¶ 31 II. Analysis

¶ 32 Although claimant does not raise the issue of the circuit court's jurisdiction, we are required to do so *sua sponte,* for if the circuit court lacked jurisdiction, then its order is void and of no effect. See *Lebron v. Gottlieb Memorial Hospital,* 237 Ill. 2d 217, 251-52 (2010) (a reviewing court has a duty to consider whether it has subject matter jurisdiction and dismiss the appeal if jurisdiction is lacking). Claimant, without providing supportive argument in her brief, stated that she "again here raises the issue that [employer's] post-remand Circuit Court appeal should have been quashed as it did not comply with the strict requirements in the Act."

¶ 33 It is undisputed that the parties received the decision of the Commission on July 7, 2021. As such, employer was required to comply with the requirements set forth in section 19(f)(1) of the Act by July 27, 2021, requiring that the appellant file a written request for summons within 20 days after receiving the Commission's decision and exhibit to the clerk of the circuit court proof of filing with the Commission a notice of intent to file for judicial review. See *id. §* 19(f)(1).

¶ 34 On July 21, 2021, employer notified the Commission of its intent to appeal. That same day, counsel for claimant received notice via email of employer's intent. On July 22, 2021, employer e-

filed a written request for summons and a notice of intent with the circuit court within the 20-day time period. Employer listed the correct mailing addresses for claimant and counsel for claimant, however, employer listed two different addresses for the Commission.[3] The circuit clerk signed the first page of the summonses; however, the second page of both documents was unsigned. A docket entry from the circuit court demonstrated that the circuit clerk issued summonses on July 22, 2021, to claimant, counsel for claimant, and the Commission (50 West Washington Street – Lower Level 17, Chicago, Illinois 60602). However, a docket entry from the circuit court and the record on appeal demonstrate that the summonses were returned on July 27, 2021. Also on July 27, 2021, the court received returned certified mail receipts unsigned by claimant and the Commission. On August 10, 2021, the circuit clerk received notice that the certified mail issued to claimant was undeliverable, with the following printed on the envelope: "RETURN TO SENDER, UNCLAIMED, UNABLE TO FORWARD."

¶ 35 On August 24, 2021, the circuit clerk issued alias summonses. Employer listed the same addresses for claimant and counsel for claimant; however, employer listed only one address for the Commission (69 West Washington Street, Suite 900, Chicago, Illinois 60602). Again, the circuit clerk signed the first page of the summonses; however, the second page of both documents was unsigned. On August 27, 2021, counsel for claimant entered limited appearance, and the court received certified mail signed by the Commission (50 West Washington Street – Lower Level 17, Chicago, Illinois 60602).

¶ 36 Here, we are not faced with a situation where employer failed to name the appropriate parties in interest or include claimant's last known address. Rather, the situation at hand is one where

[3] The top of the first page of the written summons listed the Commission as a defendant with the following address: 50 West Washington Street – Lower Level 17, Chicago, Illinois 60602. The second page listed Commission as a defendant with the following address: 69 West Washington Street, Suite 900, Chicago, Illinois 60602.

employer named the appropriate parties in interest, consistently included the correct address for claimant, and included the correct name and address of the attorney representing claimant to direct summons towards them (*id. §* 19(f)(1)). Despite this, counsel for claimant argues that, even though employer provided the circuit court with the correct mailing addresses, "notice was not mailed to either party." We cannot agree.

¶ 37 Despite the fact that the certified mail addressed to claimant and the Commission was returned to the circuit court and there is no receipt that the circuit clerk issued certified mail to counsel for claimant, we cannot conclude that employer's written request for summons failed to provide sufficient information for the circuit clerk to properly notify claimant and her attorney. In addition, employer's error in including two different addresses for the Commission in the July 22, 2021, written summons did not deprive the circuit court of subject matter jurisdiction, where employer properly named the Commission as a party in interest and timely served the summons by certified mail to the address that the Commission later returned the signed certified mail from on August 27, 2021. *Farris v. Illinois Workers' Compensation Comm'n,* 2014 IL App (4th) 130767WC, ¶ 50-51 (employer's clerical error in failing to name the Commission in the caption of its request for summons did not deprive court of subject matter jurisdiction); see *Jones v. Industrial Comm'n,* 188 Ill. 2d 314, 324 (1999) (supreme court held employer's failure to include the claimant's last known address in its request to issue summons did not deprive the circuit court of jurisdiction); see also *Old Ben Coal Co. v. Industrial Comm'n,* 217 Ill. App. 3d 70, 72-73 (1991) (appellate court found circuit court appropriately exercised jurisdiction, where employer provided sufficient information, even though the request for summons did not expressly name the claimant as a party in interest or include his last known address).

¶ 38 Moreover, once counsel for employer learned that the summonses and certified mail receipts were returned as "unsigned/undelivered," counsel subsequently filed alias summonses for a second

attempt at service on August 24, 2021. There is no evidence that the alias summonses were returned as undeliverable. Although the alias summonses were filed after the 20-day time frame, counsel for employer's prior actions demonstrate compliance with section 19(f)(1) of the Act. As such, we are unpersuaded that employer failed to comply with section 19(f)(1) of the Act by failing to include claimant and claimant's attorney's email addresses on the request for summons. Based on the foregoing, we conclude that employer strictly complied with the material provisions of the Act. Accordingly, the circuit court had subject matter jurisdiction. We now address the merits of employer's appeal.

¶ 39 Employer first argues that the circuit court erred in reversing the Commission's March 3, 2017, decision. Specifically, employer argues that the Commission's March 3, 2017, decision finding claimant's low back injury did not arise out of and in the course of her employment was not against the manifest weight of the evidence. Where, as here, the circuit court reverses the Commission's original decision and the Commission, in compliance, issues a new decision on remand, we must determine whether the Commission's initial decision was proper. *Noonan v Illinois Workers Compensation Comm'n*, 2016 IL App (1st) 152300WC; *Vogel v Industrial Comm'n*, 354 Ill. App. 3d 780, 785-786 (2007); *F & B Manufacturing Co. v Industrial Comm'n*, 325 Ill. App. 3d. 527, 531 (2001). We first consider the propriety of the Commission's initial decision.

¶ 40 An employee's injury is compensable under the Act only if it arises out of and in the course of the claimant's employment. 820 ILCS 305/2 (West 2020). Both elements must be present at the time of the claimant's injury in order to justify compensation. *Illinois Bell Telephone Co. v. Industrial Comm'n*, 131 Ill. 2d 478, 483 (1989). Arising out of the employment refers to the origin or cause of the claimant's injury. *Cox v. Illinois Workers' Compensation Comm'n*, 406 Ill. App. 3d 541, 544 (2010). For an injury to arise out of the employment, its origin must be 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). An injury arises out of one's employment if, at the time of the occurrence, the employee was performing acts she was instructed to perform by his employer, acts which he had a common law or statutory duty to perform, or acts which the employee might reasonably be expected to perform incident to his assigned duties. *Caterpillar Tractor Co.*, 129 Ill. 2d at 58. "In the course of the employment" refers to the time, place, and circumstances under which the claimant is injured. *McAllister v. Illinois Workers' Compensation Comm'n*, 2020 IL 124848, ¶ 35. A compensable injury occurs in the course of employment when it is sustained while a claimant is at work or while she performs reasonable activities in conjunction with his employment. *McAllister*, 2020 IL 124848, ¶ 35.

¶ 41 Whether the claimant sustained an accidental injury that arose out of and in the course of his employment is a question of fact. *Hosteny v. Illinois Workers' Compensation Comm'n*, 397 Ill. App. 3d 665, 674 (2009). In resolving disputed issues of fact, it is the Commission's province to assess the credibility of witnesses, draw reasonable inferences from the evidence, determine what weight to give testimony, and resolve conflicts in the evidence, particularly medical opinion evidence. *Hosteny*, 397 Ill. App. 3d at 675; *Fickas v. Industrial Comm'n*, 308 Ill. App. 3d 1037, 1041 (1999); *Swartz v. Industrial Comm'n*, 359 Ill. App. 3d 1083, 1086 (2005). We will overturn the Commission's finding only when it is against the manifest weight of the evidence. *Hosteny*, 397 Ill. App. 3d at 674. A factual finding is against the manifest weight of the evidence only if the opposite conclusion is "clearly apparent." *Swartz*, 359 Ill. App. 3d at 1086. The test is whether the evidence is sufficient to support the Commission's finding, not whether this court or any other tribunal might reach an opposite conclusion. *Pietrzak v. Industrial Comm'n*, 329 Ill. App. 3d 828, 833 (2002).

¶ 42 Here, the Commission's initial decision affirmed and adopted the arbitrator's decision, finding that claimant failed to prove that her injury arose out of and in the course of her employment. We cannot conclude that the Commission's initial decision was against the manifest weight of the evidence, where the Commission determined that claimant's July 9 and July 10, 2007, medical records did not corroborate claimant's testimony that she injured her low back when she bent down while carrying heavy plates. Given the medical evidence conflicted on this issue, we cannot disagree.

¶ 43 The medical evidence showed that claimant presented to the ER on July 9, 2007, shortly after she left work for employer. The documentation of claimant's ER visit and subsequent hospital admission fails to corroborate her testimony. First, the "Nurse's Note," dated July 9, 2007, at 1:08 p.m., mentioned claimant's presenting complaint as chest pain that started with shortness of breath while waitressing at work. We agree with the Commission that this medical note did not mention any complaints to claimant's lower back or a history of bending and carrying plates that caused a work-related, low back injury. Next, the medical note titled, "Physician Documentation," dated July 9, 2007, at 3:28 p.m., mentioned that claimant suffered chest pain, not back pain, that occurred in the morning. Although the Commission noted that "[t]here are complaints of back pain noted in this report," there was no mention of any complaints to claimant's lower back or a history of bending and carrying plates that caused a work-related, low back injury on July 9, 2007.

¶ 44 Additionally, the medical note titled, "History and Physical Examination," dated July 10, 2007, mentioned claimant's chief complaint as chest pain that "occurred in the morning yesterday [while] she was at work waitressing." Upon physical examination, Dr. Mukunda documented "[m]ild tenderness in the left lumbosacral paraspinal muscles." Consistent with Dr. Mukunda's physical examination, he documented that claimant "complains of back pain for about 3 days" and reported that claimant was at work when "she was lifting heavy plates and she felt the pain in her

left side of the lower back." Although the note referenced low back pain, the Commission determined that claimant's history did not corroborate claimant's testimony with regard to the date and mechanism of injury, where claimant testified that she bent down with plates in her hands when she felt pain across her chest and back on July 9, 2007, not July 6, 2007.

¶ 45 Lastly, the medical note titled, "Report of Consultation," dated July 10, 2007, mentioned that claimant presented with chest pain that occurred on July 9, 2007, at 11:00 a.m. while claimant "was sitting at work." As such, the Commission concluded that there existed no evidence of an inciting work related event, but that claimant's back complaints predated the alleged accident. Although the note also stated that claimant experienced "significant back pain" "when she was at work[,] she lifted heavy plates *** and it was difficult for her to sleep with the significant back pain," Dr. Mukunda's impression was that the pain was "musculoskeletal in mature" and that claimant presented to the ER with atypical chest pain that began while sitting at work. Based on the aforementioned, we cannot conclude that the opposite conclusion is clearly apparent, where inconsistencies between claimant's testimony and her medical records existed as to the date and mechanism of injury.

¶ 46 Accordingly, the Commission's initial finding that claimant failed to prove that she sustained an accident that arose out of and in the course of her employment was not against the manifest weight of the evidence, and the circuit court's order reversing that decision and remanding the matter to the Commission for further proceedings was incorrect. Because this issue is dispositive, we need not address employer's remaining argument.

¶ 47 III. Conclusion

¶ 48 For the foregoing reasons, we reverse the circuit court's November 1, 2022, order that confirmed the Commission's July 7, 2021, decision on remand. We vacate the Commission's July 7, 2021, decision on remand and reverse the circuit court's December 1, 2017, order that reversed

the Commission's March 3, 2017, decision and remanded the case to the Commission. Accordingly, we reinstate the Commission's initial decision of March 3, 2017.

¶ 49 Reversed; vacated; original Commission decision reinstated.