2023 IL App (1st) 211603WC-U
No. 1-21-1603WC
Order filed: January 13, 2023

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

WORKERS' COMPENSATION DIVISION

FLOSSMOOR SCHOOL DISTRICT #161,	)	Appeal from the
	)	Circuit Court of
Appellant,	)	Cook County
	)	
v.	)	No. 21L50158
	)	
	)	
THE ILLINOIS WORKERS' COMPENSATION COMMISSION *et al.*,	)	
	)	
	)	Honorable
(Laura Maldonado, Appellee).	)	John J. Curry Jr.,
	)	Judge Presiding.

JUSTICE CAVANAGH delivered the judgment of the court.
Presiding Justice Holdridge and Justices Hoffman, Hudson, and Barberis concurred in the judgment.

ORDER

¶ 1 *Held*: (1) The decision of the Illinois Workers' Compensation Commission (Commission) finding that the claimant was injured out of and in the course of her employment when she slipped and fell on ice in the parking lot of her employer is not against the manifest weight of the evidence.

(2) Because it is not clear from the record whether the Commission considered the factors set forth in section 8.1b of the Workers' Compensation Act (Act) (820 ILCS 305/8.1b (West 2014)) before awarding permanent partial disability benefits, we

vacate the award and remand for an affirmative indication of such consideration and a determination as to whether the awarded benefits are duplicative.

¶ 2 On January 28, 2015, claimant, Laura Maldonado, filed an application for adjustment of claim pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq*. (West 2014)), seeking benefits for injuries to her left ankle sustained in an on-premises slip and fall while employed as an administrative assistant for appellant, Flossmoor School District #161 (Flossmoor).

¶ 3 After an arbitration hearing held on three separate dates between September 28, 2018, and December 21, 2018, the arbitrator awarded claimant benefits, finding she had sustained an accident on November 24, 2014, that arose out of and in the course of her employment.

¶ 4 On review at Flossmoor's request, the Commission, in a unanimous decision, affirmed and adopted the arbitrator's decision with some modifications to the awarded benefits.

¶ 5 Flossmoor sought judicial review of the Commission's decision in the circuit court of Cook County. On December 1, 2021, the court entered an order confirming the Commission's decision. For the reasons that follow, we affirm in part, vacate in part, and remand.

¶ 6 I. BACKGROUND

¶ 7 The following recitation of the facts relevant to a disposition of this appeal is taken from (1) the transcript of the arbitration hearing held on September 28, October 4, and December 21, 2018, (2) the evidence adduced at the hearing, and (3) the decisions that followed. Our review of the evidence is summarized as follows.

¶ 8 A. Testimony of Claimant

¶ 9 Claimant, a 39-year-old (at the time of the accident) married female, testified she was employed as an administrative assistant for Flossmoor, assigned to Serena Hills Elementary School (Serena). She performed administrative and secretarial duties as directed by the principal,

Shari Demitrowicz. Claimant started working for Flossmoor in 2003 as a custodian and transitioned into the secretary role sometime around 2006. She was paid hourly, expected to work 40 hours per week, punched a timecard, and generally worked Monday through Friday, 7:30 a.m. to 4 p.m.

¶ 10 Sometime prior to the date of the accident, claimant was notified via e-mail that she was to attend a mandatory meeting at the district office at 10 a.m. on November 24, 2014. On the day of the meeting, school was not in session, but parent-teacher conferences were scheduled to begin around 1 p.m. The district office was in a separate building from Serena, three to four minutes away by car. Between the time claimant clocked in for work at 7:39 a.m. at Serena and the time she left for the meeting, she "was getting ready for the parent-teacher conferences." Claimant had planned to "go together" with Demitrowicz to the meeting. However, according to claimant, Demitrowicz called her that morning and advised "something came up" and they should just meet at the district office.

¶ 11 When leaving for the 10 a.m. meeting, claimant had her purse, her keys, and possibly a notepad in her hands. She said: "It was snowing. It was like a wet snow, I don't know how to say it, maybe like a slushy kind of snow." She said the ground "was wet and with the ice, the slushy ice." She was wearing what she described as "a flat shoe," with approximately a half-inch heel. She walked from the building to her car in the parking lot, where she had parked in one of the two designated "secretary" parking spots—the one closest to the principal's spot. As she walked across the empty "principal" spot, approximately three steps from her driver side door, she slipped and fell "because the ground was wet and slippery." She said "it was like ice on the ground" with "a little bit of snow." She said her left foot twisted, she slipped, her right leg went out from under her, and she fell on top of her left foot.

¶ 12 Once on the ground, claimant was unable to move and was in a lot of pain. She called the district office to advise she had fallen in the parking lot at Serena and needed assistance. Demitrowicz, the custodian from Serena, and another maintenance employee arrived to help her. They put her in the back seat of her car and waited for the ambulance. The ambulance took her to the emergency room at St. James Hospital where the doctors determined she had fractured and dislocated her ankle—an injury requiring surgery. Her primary physician referred her to an orthopedic surgeon, Dr. Jason Rosenblum, who performed the surgery on November 26, 2014. He performed a left ankle trimalleolar open reduction and internal fixation. He placed a large screw across the medial malloelus and inserted a lateral fixation plate along the distal fibula secured by six screws. During several follow-up visits, claimant complained of severe pain. Further imaging revealed debris in and around the joint, spurring, and a loosening of the plate.

¶ 13 Five months after surgery, Dr. Rosenblum performed a second surgery on April 27, 2015, to clean the debris from the area. The doctor noted the fracture at the distal fibula had healed. Claimant was released to return to work with restrictions on June 1, 2015, but did not start back until June 8, 2015. However, claimant's pain did not subside. Subsequent imaging in January 2016 revealed the need for a third surgical intervention. Claimant's third surgery was performed arthroscopically on March 25, 2016. Dr. Rosenblum again cleaned the spurs, cysts, and loose bodies in the joint. Claimant returned to work on April 4, 2016, with the same restrictions.

¶ 14 Claimant testified she still has pain in her left leg and ankle every day, "all the time." The pain is worse when she initially gets out of bed but, as she moves around, she begins to feel some relief. She continues to take pain medication and performs home exercises and stretches.

¶ 15 On cross-examination, claimant testified that sometime prior to the meeting, she received the e-mail notification advising her of the November 24, 2014, 10 a.m. mandatory meeting. However, she denied that anyone told her to report to the district office first without going to Serena at her regular 7:30 a.m. start time.

¶ 16 B. Testimony of Shari Demitrowicz

¶ 17 Demitrowicz testified she had been the principal at Serena for six years and claimant was one of her administrative assistants. During the meeting on November 24, 2014, at the district office, Demitrowicz was notified that claimant had fallen in Serena's parking lot. She said she immediately called Serena's custodian, Deundra Cocroft, to assist claimant. When Demitrowicz arrived at Serena, she found claimant injured and laying on the ground. After calling for an ambulance, Cocroft and Demitrowicz picked up claimant and placed her in the back seat of her car.

¶ 18 Demitrowicz acknowledged claimant had fallen near her car in the parking lot—a lot used primarily by employees but not designated as an employee-only lot. Within a week of the fall, Demitrowicz completed a report, indicating claimant had advised her "that while walking to the parking lot, she slipped and fell on the blacktop pavement near her car." Demitrowicz wrote the "unsafe condition was snow and strong wind."

¶ 19 C. Testimony of Fran LaBella

¶ 20 Flossmoor called Fran LaBella, the associate superintendent for business services. She testified claimant fell in the north parking lot at Serena. This parking lot, along with all other parking lots near the school, is not an exclusive employee-only lot. LaBella was the person who called the meeting at 10 a.m. on November 24, 2014, at the district office to discuss various issues related to student registration and residency.

¶ 21 LaBella testified she was not involved in the construction of the signs designating certain parking spaces in the north lot. However, she said the signs were placed as a courtesy to those employees who may have a reason to go to other buildings during the day. Those employees were not required to park in their designated spots. The parking lots were open to employees and the public alike.

¶ 22 According to LaBella, due to parent/teacher conferences, there were different start and ending times for staff on November 24, 2014. The teachers, administrative assistants, and administrators were expected to stay on premises until the end of parent/teacher conferences that day. Any overtime must have had prior approval from an administrator.

¶ 23 The following exchange occurred:

> "Q. Okay. Thank you. Did you instruct [claimant] to go to Serena School before the ten o'clock start time at the district offices for the meeting?
>
> A. No, I did not.
>
> Q. Did you instruct anybody to tell her to go to the—to Serena School before she was to show up at the district offices at ten o'clock for the meeting?
>
> A. No, I did not."

¶ 24 On cross-examination, LaBella testified the principal of each building had the authority to "adjust start times based on the needs of the building." She said employees are required to work seven hours per day, so claimant's normal start time of 7:30 a.m. did not apply on a parent/teacher-conference day when the start time would be later than usual. LaBella admitted she did not know whether Demitrowicz advised claimant of her start or end times on November 24, 2014.

¶ 25 D. Arbitrator's Decision

¶ 26 Following the hearing, the arbitrator issued a written decision on May 24, 2019, finding as follows: (1) claimant had sustained an accident that arose out of and in the course of her employment, (2) Flossmoor was responsible for claimant's unpaid incurred medical expenses pursuant to fee schedule provisions and subject to a credit for any group-paid expenses, (3) claimant was entitled to temporary total disability (TTD) benefits, and (4) claimant was entitled to permanent partial disability (PPD) benefits to the extent of 50% loss of use of her left foot and 35% loss of use of her left leg pursuant to section 8(e) of the Act (820 ILCS 305/8(e) (West 2014)).

¶ 27 According to the arbitrator, claimant's injury arose out of and in the course of her employment because, at the time of her fall on Flossmoor's "snowy, icy, and wet premises," claimant was walking to her vehicle to attend a mandatory meeting during her workday. The arbitrator concluded, based on "the current case law" and facts of the case, claimant's resulting injuries were compensable. Specifically, with regard to the TTD benefits, the arbitrator calculated the award for the following timeframes: November 24, 2014, through June 8, 2015, and March 24, 2016, through April 4, 2016, for a total of 206 days.

¶ 28 E. Commission's Decision

¶ 29 Flossmoor filed a petition for review of the arbitrator's decision before the Commission. On March 17, 2021, the Commission issued a unanimous decision, affirming and adopting the arbitrator's decision, with some modifications related to the award of benefits. Specifically, the Commission found claimant was entitled to TTD benefits only from November 25, 2014 (the day following the accident) through June 1, 2015, because this was the time period claimed on the request for hearing and affirmed verbally on the day of the hearing. For these reasons, the Commission found the arbitrator erred in awarding TTD for any days outside of those

claimed, namely March 24, 2016, through April 4, 2016. In all other respects, the Commission affirmed the arbitrator's decision.

¶ 30 F. Circuit Court's Decision

¶ 31 Flossmoor sought judicial review of the Commission's decision in the circuit court of Cook County. On December 1, 2021, the circuit court confirmed the Commission's decision, and this appeal followed.

¶ 32 II. ANALYSIS

¶ 33 Flossmoor contends (1) the Commission's determination that claimant suffered an accident that arose out of and in the course of her employment was against the manifest weight of the evidence or erroneous as a matter of law and, therefore, (2) claimant was not entitled to benefits. In the alternative, Flossmoor argues the Commission's award of PPD was not supported by a consideration of the factors set forth in section 8.1b of the Act and the award based on a 50% loss of use of claimant's left foot and 35% loss of use of her left leg was duplicative.

¶ 34 A. Whether Claimant Suffered a Compensable Injury

¶ 35 In a workers' compensation case, the claimant has the burden of proving, by a preponderance of the evidence, that she has suffered a disabling injury which arose out of and in the course of her employment. *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 203 (2003). An injury "arises out of" employment when "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.* A risk is incidental to the employment where it belongs to or is connected with what an employee has to do in fulfilling her duties. *Caterpillar Tractor Co. v. Industrial Comm'n*, 129 Ill. 2d 52, 58 (1989).

¶ 36 "The phrase 'in the course of employment' refers to the time, place and circumstances of the injury." *Eagle Discount Supermarket v. Industrial Comm'n*, 82 Ill. 2d 331, 338 (1980). If the injury occurs within the time period of employment, at a place where the employee can reasonably be expected to be in the performance of her duties and while she is performing those duties or doing something incidental thereto, the injury is deemed to have occurred in the course of employment. *Id.*; see also *Sisbro*, 207 Ill. 2d at 203 (ruling that an injury occurs "in the course of employment" when it "occur[s] within the time and space boundaries of the employment"); *Mores-Harvey v. Industrial Comm'n*, 345 Ill. App. 3d 1034, 1037 (2004).

¶ 37 Whether an injury arose out of and in the course of one's employment is generally a question of fact and the Commission's determination on this issue will not be disturbed unless it is against the manifest weight of the evidence. *Brais v. Illinois Workers' Compensation Comm'n*, 2014 IL App (3d) 120820WC, ¶ 19. "In resolving questions of fact, it is within the province of the Commission to assess the credibility of witnesses, resolve conflicts in the evidence, assign weight to be accorded the evidence, and draw reasonable inferences from the evidence." *Hosteny v. Illinois Workers' Compensation Comm'n*, 397 Ill. App. 3d 665, 674 (2009)."For a finding of fact to be against the manifest weight of the evidence, an opposite conclusion must be clearly apparent from the record on appeal." *City of Springfield v. Illinois Workers' Compensation Comm'n*, 388 Ill. App. 3d 297, 315 (2009); see also *Swartz v. Industrial Comm'n*, 359 Ill. App. 3d 1083, 1086 (2005). 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). Although this court is reluctant to conclude that a factual determination of the Commission is against the manifest weight of the evidence, we will not hesitate to do so when the clearly evident, plain, and undisputable weight of the evidence

compels an opposite conclusion. *Dye v. Illinois Workers' Compensation Comm'n*, 2012 IL App (3d) 110907WC, ¶ 10.

¶ 38 On the other hand, if the issue presents solely a question of law, the reviewing court will apply a *de novo* standard of review. *Simpson v. Illinois Workers' Compensation Comm'n*, 2017 IL App (3d) 160024WC, ¶ 38. However, "[e]ven in cases where the facts are undisputed, this court must apply the manifest-weight standard if more than one reasonable inference might be drawn from the facts." *Baumgardner v. Illinois Workers' Compensation Comm'n*, 409 Ill. App. 3d 274, 279 (2011).

¶ 39 1. *"In the Course of" Employment*

¶ 40 We will address the "in the course of" employment factor first. As stated above, this factor refers to the time, place, and circumstances of the accident. Generally, an injury sustained on the employer's premises during work hours would be considered to have been incurred "in the course of" employment. *Suter v. Illinois Workers' Compensation Comm'n*, 2013 IL App (4th) 130049WC, ¶ 18.

¶ 41 Flossmoor argues it was "undisputed" claimant was not scheduled to work at the time of the accident and therefore, her injuries did not occur "in the course of" her employment. In its brief, Flossmoor repeatedly asserts claimant *knew* and *was instructed that* she was not to report to work at her regular time on November 24, 2014. It argues claimant received an e-mail telling her to report to the district office at 10 a.m. for the meeting "instead of going to school to start her day at 7:30 a.m." It claims that, due to these notices, claimant had "no employment reason to be at the school." Flossmoor contends "it is undisputed under the evidence that Claimant fully knew her workday did not start until her appearance at the District Office meeting."

¶ 42 These assertions are not supported by the record and are actually misstatements of the evidence presented. There was no evidence presented that claimant was advised by any of her superiors to report directly to the meeting at 10 a.m. rather than to Serena at her regular start time. The evidence showed the parent/teacher conferences began at 1 p.m. but there was no evidence presented as to when the conferences ended for the day. So, Flossmoor's assertion that claimant was expected to start her day at 10 a.m. and work beyond 4 p.m. is an unsupported inference. It is just as likely and therefore could also be reasonably inferred from the evidence the conferences ended at 4 p.m. Further, Demitrowicz did not testify as to claimant's expected work hours that day and LaBella testified she did not know whether Demitrowicz had advised claimant when to report to work or whether she was to work beyond her regular hours.

¶ 43 Accordingly, contrary to Flossmoor's argument, the material facts related to the hours of claimant's workday and whether she was authorized to be at Serena prior to the meeting are subject to more than a single reasonable inference and are not undisputed. Thus, we will apply a manifest-weight standard.

¶ 44 Claimant testified she reported to Serena at her regular start time of approximately 7:30 a.m. She said she and Demitrowicz had planned to drive to the meeting together from Serena. She testified she reported to Serena to prepare for the parent/teacher conferences and then left in time to attend the mandatory meeting at the district office. She had planned to return to Serena after the meeting. The Commission found claimant's testimony credible.

¶ 45 Because Flossmoor did not successfully rebut claimant's testimony with competent and solid evidence to the contrary, we find the Commission's determination that claimant's injuries were sustained "in the course of" her employment was not against the manifest weight of the evidence.

¶ 46 2. *"Arising Out of" Employment*

¶ 47 To be compensable, the accident and injuries must also "arise out of" claimant's employment. This factor refers to the origin or cause of claimant's injury. *Suter*, 2013 IL App (4th) 130049WC, ¶ 39. "For an injury caused by a fall to arise out of the employment, a claimant must present evidence which supports a reasonable inference that the fall stemmed from a risk associated with her employment." *Id.* Typically, if at the time of the fall, the claimant was performing acts she was instructed to perform by her employer, any resulting injury would be deemed to "arise out of" her employment. *Caterpillar Tractor*, 129 Ill. 2d at 58. A risk is associated with employment where it is connected to what an employee has to do in fulfilling her duties. *Id.*

¶ 48 The award of benefits not only depends on what the employee was doing but where she was at the time of injury. When an employee slips and falls, or is otherwise injured, in a parking lot provided by and under the control of the employer, the injuries are typically compensable. *Illinois Bell Telephone Co. v. Industrial Comm'n*, 131 Ill. 2d 478, 484 (1989). This is known as the "parking lot exception" (see *Mores-Harvey*, 345 Ill. App. 3d at 1038), which applies in circumstances where the employee's injury is caused by some hazardous condition in the parking lot. See *Archer Daniels Midland Co. v. Industrial Comm'n*, 91 Ill. 2d 210, 217 (1982); *Hiram Walker & Sons, Inc. v. Industrial Comm'n*, 41 Ill. 2d 429, 431 (1968); *De Hoyos v. Industrial Comm'n*, 26 Ill. 2d 110, 114 (1962).

¶ 49 The Commission found claimant fell due to wet, icy, and snowy conditions on Flossmoor's premises while she was walking to her vehicle to attend a mandatory work meeting, to which she had to drive three to five minutes at 10 a.m. during claimant's workday. That is, at the time of the accident, which resulted in injuries, claimant was performing acts she was instructed to perform or was reasonably expected to perform incident to her assigned duties. And she was

injured due to a hazardous condition on a parking lot owned and maintained by Flossmoor. See *Mores-Harvey*, 345 Ill. App. 3d at 1040 (stating a parking lot maintained and provided by the employer for the employee's use is considered part of the employer's premises, regardless of whether it is also used by the general public).

¶ 50 In other words, the hazardous condition on Flossmoor's premises rendered the risk of injury a risk incidental to employment without any further risk analysis related to those encountered by the general public. See *id*. The issue of whether claimant confronted a risk to a greater extent or degree than did members of the general public is only relevant if claimant's injury did not occur on Flossmoor's premises or was not caused by the condition of Flossmoor's premises. See *Caterpillar Tractor*, 129 Ill. 2d at 61 (where the court engaged in a general-public-risk analysis after finding the claimant's fall was not caused by a defective or hazardous condition on the employer's premises).

¶ 51 The evidence supports the Commission's finding that claimant's injury arose out of her employment, as shown by the causal connection between claimant performing her work duties and the injuries sustained in her fall on Flossmoor's wet, icy, and snowy pavement at a time when she was performing those duties. As a result, we find any further risk analysis to be unnecessary. That is, any discussions of the risks related to whether claimant was parked in an appropriate parking spot, whether the parking lot was open to the general public, or whether claimant was subjected to a potential weather hazard to a greater extent than the general public are of no consequence to this analysis.

¶ 52 Flossmoor relies on *Dukich* to support its position that claimant was not at any increased risk of falling due to her employment more so than the general public. See *Dukich v. Illinois Workers' Compensation Comm'n*, 2017 IL App (2d) 160351WC, ¶ 31. In *Dukich*, the

claimant slipped on the wet surface of an outdoor ramp on the employer's premises while walking to her car to leave for lunch. *Id.* ¶ 1. The Commission found the claimant's injuries resulting from her fall were not compensable because there was no evidence that her fall was caused by a hazardous condition on the employer's premises. *Id*. ¶ 35. The surface was merely wet from the rain. *Id.* ¶ 35. The reviewing court agreed with the Commission's decision regarding the absence of a hazardous condition. *Id.* ¶ 36. After finding the absence of a hazardous condition, the court then engaged in a neutral-risk analysis. *Id*. ¶¶ 36-42. As stated, such analysis is inapplicable to the facts of this case, where, as the Commission found, claimant fell due to the "snowy, icy and wet" conditions of Flossmoor's premises—conditions deemed to be hazardous.

¶ 53 Based on the above analysis, we find the Commission's decision that claimant's accident and resulting injuries arose out of and in the course of her employment was not against the manifest weight of the evidence.

¶ 54 B. Award of PPD

¶ 55 As an alternative argument, Flossmoor challenges the Commission's award of PPD as "contrary to law and improper" on two grounds. First, Flossmoor claims the Commission failed to consider the statutory factors set forth in section 8.1b of the Act prior to awarding PPD benefits. Second, Flossmoor contends the award is duplicative, resulting in a double recovery, as there was no medical evidence supporting any injury or treatment to claimant's left leg from her fractured ankle. On these grounds, Flossmoor urges this court reverse and remand for a "re-determination of proper PPD value."

¶ 56 We find the Commission erred. Affirming and adopting the arbitrator's decision, the Commission awarded claimant 83.5 weeks' PPD for a 50% loss of use of her left foot and 75.25 weeks for a 35% loss of use of her left leg. Flossmoor's arguments challenging these awards

involve matters of statutory construction, which we review *de novo*. *Corn Belt Energy Corp. v. Illinois Workers' Compensation Comm'n*, 2016 IL App (3d) 150311WC, ¶ 41. When interpreting the Act, our primary goal is to ascertain and give effect to the legislature's intent. *Id.* The statutory language is generally the best indicator of the legislature's intent. *Id.* Any words that are not defined in the statute must be given their ordinary and popularly understood meaning. *Id.*

¶ 57 1. *Consideration of Section 8.1b Factors*

¶ 58 Section 8.1b of the Act (820 ILCS 305/8.1b (West 2014)) provides as follows with respect to the determination of PPD benefits:

> "For accidental injuries that occur on or after September 1, 2011, [PPD] shall be established using the following criteria:
>
> (a) A physician licensed to practice medicine in all of its branches preparing a [PPD] impairment report shall report the level of impairment in writing. The report shall include an evaluation of medically defined and professionally appropriate measurements of impairment that include, but are not limited to: loss of range of motion; loss of strength; measured atrophy of tissue mass consistent with the injury; and any other measurements that establish the nature and extent of the impairment. The most current edition of the American Medical Association's 'Guides to the Evaluation of Permanent Impairment' shall be used by the physician in determining the level of impairment.
>
> (b) In determining the level of [PPD], the Commission *shall* base its determination on the following factors: (i) the reported level of impairment pursuant to subsection (a); (ii) the occupation of the injured employee; (iii) the age of the employee at the time of the injury; (iv) the employee's future earning

capacity; and (v) evidence of disability corroborated by the treating medical records. No single enumerated factor shall be the sole determinant of disability. In determining the level of disability, the relevance and weight of any factors used in addition to the level of impairment as reported by the physician must be explained in a written order." (Emphasis added.)

¶ 59 In this case, neither party submitted a physician's disability impairment report as contemplated by section 8.1b(a) of the Act. Subsection (b), set forth above, is addressed to the Commission and specifies the factors upon which the level of PPD *shall* be determined. Because there was no physician's disability impairment report, the Commission was required to base its PPD determination on the four other factors listed. *Corn Belt Energy Corp.*, 2016 IL App (3d) 150311WC, ¶ 49.

¶ 60 In its "conclusions of law" and analysis of the PPD award, the arbitrator provided a detailed summary of claimant's medical records, which arguably implied a consideration of the fifth factor (evidence of disability corroborated by the treating medical records). It mentioned claimant's injuries, the timeline for surgical treatment, and the resulting on-going status of non-surgical treatment. However, neither the arbitrator nor the Commission acknowledged, analyzed, or even mentioned the section 8.1b factors and the requirement to consider those factors in the PPD determination.

¶ 61 Claimant suggests the unmentioned factors, two, three, and four, are of such little weight and "essentially mooted by the lack of an impairment rating and the undisputed facts." She claims, "only the fifth factor needed to be considered." If that is so, then the Commission should so state. There is no indication the Commission in any way complied with the requirements of section 8.1b of the Act. The decision did not contain a discussion or analysis of the relevance and

weight of *any* of the factors enumerated in the statute, let alone contain an acknowledgement that the statutory requirement even exists. Therefore, we vacate the Commission's award of PPD benefits and remand this matter to the Commission with directions to comply with the requirements of section 8.1b of the Act and explain in a written order both the relevance and weight which it placed on each of the factors enumerated in section 8.1b(b) in awarding claimant PPD benefits.

¶ 62 2. *Propriety of the PPD Award*

¶ 63 Having vacated the Commission's PPD award, we decline to address Flossmoor's argument that the PPD award based upon a 50% loss of use of claimant's left foot and 35% loss of use of claimant's left leg is against the manifest weight of the evidence. Whether a PPD award is supported by the manifest weight of the evidence is dependent on the weight that the Commission places upon each of the statutory factors for consideration, and our resolution of the question must, therefore, await the Commission's written explanation.

¶ 64 III. CONCLUSION

¶ 65 Based upon the foregoing analysis, we (1) reverse that portion of the circuit court's judgment that confirmed the Commission's PPD award and affirm the judgment in all other respects; (2) vacate the Commission's PPD award; and (3) remand the matter to the Commission with instructions to render a PPD award supported by written findings as required by section 8.1b(b) of the Act.

¶ 66 Circuit court's decision affirmed in part and reversed in part.

¶ 67 Commission's decision affirmed in part, vacated in part, and remanded with directions.