2023 IL App (1st) 220341WC-U

Workers' Compensation
Commission Division
Order Filed: March 17, 2023

No. 1-22-0341WC

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IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

CHICAGO BOARD OF EDUCATION,	)	Appeal from the
	)	Circuit Court of
	)	Cook County, Illinois.
Plaintiff-Appellant,	)	
v.	)	No. 2021 L 50166
	)	
ILLINOIS WORKERS' COMPENSATION COMMISSION, *et al.*	)	
	)	
	)	Honorable
	)	Daniel Duffy,
(Lisa Eskridge, Defendant-Appellee).	)	Judge, Presiding.

ORDER

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

¶ 1 *Held:* We affirm the circuit court's order confirming the Commission's decision where sufficient evidence that the wet condition of the stairs contributed to claimant's fall established claimant's injuries arose out of and in the course of her employment.

¶ 2 I. Background

¶ 3 On February 17, 2011, claimant, Lisa Eskridge, filed an application for adjustment of claim pursuant to the Illinois Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2010)) against her employer, Chicago Board of Education, seeking benefits for injuries she sustained to her knees, lower back, head, left elbow, and right pointer finger from falling down a flight of stairs at her place of employment on January 19, 2011.

¶ 4 The following factual recitation was taken from the evidence adduced at two arbitration hearings held on July 12, 2018, and September 9, 2018. We limit our recitation to those facts relevant to our disposition of this appeal.

¶ 5 At the time of the accident, claimant, a schoolteacher with 20 years of experience, taught kindergarten and first grade for employer at Emmett Till School (Emmett Till) in Chicago, Illinois. Emmett Till consisted of two separate buildings—a smaller building, where claimant's classroom was located on the first floor, and a larger building (big building) with four floors. The big building housed the library and three specialty classes, including gym, music, and art. In addition, the employee time clock was located on the second floor of the big building. Claimant testified that she walked up and down multiple flights of stairs at work. Specifically, she stated that she traversed stairs eight times per day, three days a week, and two to six times per day, two days of the week, depending on the specialty class her students attended each day. Claimant testified that she was required to traverse a flight of stairs two times a day to clock in and out of work on the second floor of the big building.

¶ 6 Claimant testified to the events surrounding her fall on January 19, 2011. Following the end of the school day, claimant, who felt "fine" prior to the fall, clocked out of work on the second floor of the big building. Claimant then stated the following:

> "There was a lot of snow and ice. That particular day *** parent patrol came back in the building. They had exit[ed] before the teachers but came back in *** and caused the stairs to be wet ***. And when I went up to sign in on my way back down to sign out, the stairs were wet. I felt my foot slip, and I just remember clinging on as best I could, and that's all I remember."

Claimant also testified that the stairs were slanted and lacked metal or treading material. After claimant fell down approximately 22 stairs, she regained consciousness at the bottom of the stairs and discovered that her coat was wet.

¶ 7 On cross-examination, claimant testified that she fell because "the stairs were wet." Claimant confirmed that the parent patrol entered the big building and traversed the second-floor stairs with snow on their shoes. Again, claimant testified that she injured herself after she fell down "wet, worn stairs." In attempting to demonstrate that claimant's medical records indicated that she experienced a syncopal episode, the following colloquy took place between counsel for employer and claimant:

> "Q. In the St. Bernard's emergency room, they wrote down that you gave a history. They wrote down, 'Pt and witness state she was @ work walking down stairs, felt lightheaded and passed out hitting her head on cement. There was a loss of consciousness ***.'
> A. That is not true.
> Q. So it's not true that you passed out?
> A. No.
> Q. You were not lightheaded?
> A. No, that's not true.
> Q. Why would they write that then?
> A. I have no idea. My daughter was there, so was my co-worker, and I did not say that."

Despite the fact that the discharge notes from St. Bernard Hospital stated that claimant experienced a syncopal episode that caused her to fall, claimant denied the accuracy of the notes. Additionally, counsel for employer discussed Dr. Wayne Williamson's January 21, 2011, medical notes from Advocate South Suburban Hospital, which stated the following:

> "Patient is a 46-year-old female who presented to the emergency room following apparent syncopal episode while at work. Patient states she was walking out of her job, was at the top of the stairs talking to a friend and suddenly realized that she had lost her balance and fell ***. The patient [was] not clear if she passed out or not but does remember the exact events leading to when she found herself at the bottom of the stairs. *** Patient's friend said it looks like she may have passed out but again the patient is not sure."

Claimant again denied that she passed out or felt lightheaded at the time of her fall.

¶ 8 On redirect examination, claimant responded affirmatively when counsel for claimant asked if she was "positive that there was water on the stairs," causing her fall. Claimant reiterated that her employer required her to traverse the stairs to clock in and out of work every day. Claimant testified that she did not understand what a syncopal episode was, and she never received treatment for such an episode. Additionally, claimant denied feeling dizzy and/or falling down before or after January 19, 2011.

¶ 9 Michelle Mosley, claimant's co-worker at Emmett Till, testified to the following. Mosley confirmed that in order to receive compensation, employer required all employees, including claimant, to walk up and down a flight of stairs in the big building to clock in and out of work. Mosley also confirmed that the stairs, which needed to be repaired, were wet from snow and ice on January 19, 2011. Mosley recalled that claimant's clothing was wet following her fall.

¶ 10 On cross-examination, Mosley testified that both the top and bottom of the second-floor stairs were wet. The following dialogue took place between counsel for employer and Mosley regarding claimant's fall:

> "Q. It [claimant's medical records from South Advocate] said it's not clear if she passed out or not and she found herself at the bottom of the stairs. Do you recall whether she passed out?
> A. We were talking. I don't—
> Q. Did she –
> A. I don't believe she passed—I can't tell you [if] she did or she didn't. We were talking, walking down the steps so—
> Q. And you said she fell down 15 steps?
> A. We got—we were at the top. And I don't know if it was the first or the third, but as soon as we started walking is when she slipped down the stairs.
> ***
> Q. Did you see what actually caused her to fall?
> A. I didn't see anything. The stairs need to be repaired. I do know that. They were wet. It was winter. *** She slipped on the steps. That's all I know. And she slid down all the steps. That part I do remember."

¶ 11 On January 22, 2019, the arbitrator found that claimant failed to prove she sustained accidental injuries that arose out of and in the course of her employment and denied benefits. The arbitrator, finding claimant's testimony lacked credibility, concluded that claimant did not slip and fall on wet, dilapidated stairs. Rather, the arbitrator concluded that claimant fell down the stairs after she experienced a syncopal episode. The arbitrator believed that, had claimant fallen as a result of snow, ice, and dilapidated stairs, she "would have given that history to her initial providers and she failed to do so." Moreover, the arbitrator concluded that Mosley's testimony that she was unsure whether or not claimant passed out "[wa]s not enough to persuade [him] that a syncope did not occur." The arbitrator denied claimant compensation, stating that "[t]he fall was idiopathic in nature, it is not unexplained." The arbitrator awarded employer a credit of $312,386.15 in indemnity benefits and $14,556.90 in paid medical bills. Claimant filed a timely petition for review with the Illinois Workers' Compensation Commission (Commission).

¶ 12 On March 9, 2021, the Commission adopted and incorporated the arbitrator's findings of fact, however, "[t]he Commission view[ed] the evidence differently than the Arbitrator," finding that claimant proved she sustained an accident which arose out of and in the course of her employment. Although the Commission did not dispute the arbitrator's finding that claimant sustained a fall due to a syncopal episode, the Commission determined that claimant presented evidence to support a reasonable inference that the fall stemmed from a risk related to her employment. Specifically, the Commission found that the stairs in the big building were not " 'average' " stairs but "made of cement, worn, uneven, and lacked treading." Additionally, because claimant was required to traverse stairs that were "25 steps in height" to clock in and out of work every day, the Commission concluded that claimant's employment contributed to her injuries by placing her in a position where the stairs increased her risk of injury from the fall. Employer sought timely judicial review of the Commission's decision in the circuit court of Cook County.

¶ 13 On February 10, 2022, the circuit court confirmed the Commission's decision. The court determined that claimant, who was "descending the flight of stairs at issue after clocking out" of work for the day, "was indisputably engaged in an act 'that the employee might reasonably be expected to perform incident to his or her assigned duties.' " Employer filed a timely notice of appeal.

¶ 14 II. Analysis

¶ 15 Employer raises multiple issues on appeal, however, the ultimate issue before this court is whether claimant sustained an accident which arose out of her employment. Employer does not dispute that claimant's fall took place in the course of her employment. Whether a claimant's injury arose out of and in the course of her employment is a question of fact to be resolved by the Commission, and the Commission's determination will not be disturbed on review unless it is

against the manifest weight of the evidence. *Cox v. Illinois Workers' Compensation Comm'n,* 406 Ill. App. 3d 541, 546 (2010). A decision is against the manifest weight of the evidence only if an opposite conclusion is clearly apparent. *Caterpillar, Inc. v. Industrial Comm'n*, 228 Ill. App. 3d 288, 291 (1992). Where the inferences drawn by the Commission are reasonable, such inferences cannot be disregarded because other inferences might have been drawn from the same facts. *Berry v. Industrial Comm'n*, 99 Ill. 2d 401, 406-07 (1984).

¶ 16 We find, as did the Commission, that claimant's injuries arose out of her employment. The Commission did not dispute the arbitrator's finding of fact that claimant's fall was caused by a syncopal episode that was idiopathic in nature. Dissimilar to the arbitrator, however, the Commission determined that claimant's fall was compensable because her employment significantly contributed to her injury, where the dilapidated condition of the stairs caused her fall. *Elliot v. Industrial Comm'n,* 153 Ill. App. 3d 238, 244 (1987) (citing *Ervin v. Industrial Comm'n,* 364 Ill. 56 (1936)) ("An idiopathic fall may be compensable if the employment significantly contributed to the injury by placing the employee in a position increasing the dangerous effects of the fall."). We must point out that we may affirm the Commission's decision if there is any legal basis in the record which would sustain that decision, regardless of whether the Commission's reasoning is correct or sound. *Freeman United Coal Min. Co. v. Industrial Comm'n,* 283 Ill. App. 3d 785, 793 (1996) (quoting *Butler Manufacturing Co. v. Industrial Comm'n,* 140 Ill. App. 3d 729, 734 (1986)). Thus, although we disagree with the Commission's reasoning that the stairs were dilapidated, we believe ample evidence exists that the wet stairs caused claimant's fall.

¶ 17 Here, the record reflects that claimant consistently testified that she slipped and fell on wet stairs. Specifically, she testified that the stairs were wet after the parent patrol entered the big building from outside, tracked-in snow and ice on their shoes, and then traversed the same flight of

stairs that claimant subsequently fell down. Mosley, claimant's colleague, confirmed claimant's testimony that the floor and stairs leading to the second floor were wet as a result of the outside wintery conditions. Moreover, it is undisputed that in order to receive compensation, employer *required* claimant to traverse a flight of stairs at least two times a day to clock in and out of work, and it was immediately following this employer-required task that claimant fell down the stairs. As stated above, although we disagree with the Commission's rationale, we ultimately find that the Commission properly concluded that claimant's injuries arose out of her employment. Accordingly, the Commission's finding that claimant sustained an accident that arose out of and in the course of her employment was not against the manifest weight of the evidence.

¶ 18 III. Conclusion

¶ 19 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County, which confirmed the Commission's decision.

¶ 20 Affirmed.