

2023 IL App (1st) 221341WC-U
No. 1-22-1341WC
Order filed September 22, 2023

NOTICE: This order was filed under Supreme Court Rule 23(b) and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT
WORKERS' COMPENSATION COMMISSION DIVISION

ROBERT STARBUCK,)	Appeal from the Circuit Court
)	of Cook County.
Appellant,)	
)	
v.)	No. 21 L 50461
)	
THE ILLINOIS WORKERS')	
COMPENSATION COMMISSION, <i>et al.</i>)	Honorable
)	Daniel P. Duffy,
(City of Chicago, Appellee).)	Judge, Presiding.

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

ORDER

¶ 1 *Held:* Appellant's failure to provide the reviewing court with a sufficiently complete record on appeal required the reviewing court to construe the record against appellant and affirm the decision of the trial court. Affirmed.

¶ 2 I. INTRODUCTION

¶ 3 Claimant, Robert Starbuck, appeals from an order of the circuit court of Cook County confirming the decision of the Illinois Workers' Compensation Commission (Commission) denying his petition for additional benefits pursuant to section 8(a) of the Workers' Compensation

Act (Act) (820 ILCS 305/8(a) (West 2018)). For the reasons that follow, we affirm the judgment of the circuit court.

¶ 4

II. BACKGROUND

¶ 5 The following facts are gleaned from the limited record submitted on appeal. Claimant was employed by respondent, the City of Chicago. He filed an application for adjustment of claim alleging a work-related injury occurring on May 31, 2005. The matter proceeded to an arbitration hearing pursuant to section 19(b) of the Act (820 ILCS 305/19(b) (West 2004)) before Arbitrator Gilberto Galicia. In a decision filed on May 24, 2006, Arbitrator Galicia found that claimant sustained a compensable injury to his left forearm.

¶ 6 The record does not reflect that there were any additional proceedings in this matter until December 1, 2015, when the parties appeared before Arbitrator Deborah Simpson. At issue at that hearing was whether claimant's current condition of ill-being was causally related to his work accident. Also in dispute were medical expenses, temporary total disability (TTD) benefits, nature and extent of the injury, respondent's entitlement to a credit, and penalties. Additionally, on January 20, 2016, the parties appeared before Arbitrator Simpson for a separate hearing on attorney fees. On February 13, 2017, Arbitrator Simpson issued her decision. Relevant to this appeal, Arbitrator Simpson concluded that three separate injuries were at issue—the left arm, the cervical spine, and a psychological condition. With respect to the left arm, Arbitrator Simpson noted that claimant's condition was previously found to be causally related to the work accident of May 31, 2005. In keeping with that finding, Arbitrator Simpson determined that claimant's condition of ill-being as it relates to his left arm was causally related to the work accident. Next, Arbitrator Simpson concluded that claimant's cervical spine condition was not causally related to the May 31, 2005, work accident because there were no complaints about or treatment to claimant's cervical

spine in the two years following the work accident. Finally, Arbitrator Simpson concluded that claimant's psychological condition was a temporary aggravation of pre-existing conditions of anxiety and depression. Arbitrator Simpson awarded claimant TTD benefits, maintenance benefits, permanent partial disability benefits, and medical expenses. Claimant sought review of Arbitrator Simpson's decision before the Commission. On October 25, 2016, the Commission affirmed and adopted Arbitrator Simpson's findings regarding causation as well as her award of benefits. The circuit court of Cook County confirmed the decision of the Commission on those matters.

¶ 7 Subsequently, claimant filed with the Commission a petition for additional benefits pursuant to section 8(a) of the Act (820 ILCS 305/8(a) (West 2018)). Although a copy of the section 8(a) petition has not been included in the record filed on appeal, the parties do not dispute that claimant sought compensation for prescription expenses as well as out-of-pocket medical and psychological expenses incurred since the January 2016 arbitration hearing. On September 27, 2021, following a hearing, the Commission denied the section 8(a) petition. The Commission determined that claimant was not entitled to payment of the prescription expenses because: (1) he failed to prove a causal connection between the 2005 work accident and the requested medication expenses; (2) he had not treated for his left extremity condition since April 2008; and (3) some of the bills were incurred before January 20, 2016, and should have been submitted at the arbitration hearing. The Commission also determined that claimant was not entitled to payment of the out-of-pocket medical expenses because he did not establish that these bills were related to injuries sustained in the 2005 work accident as opposed to treatment of his cervical spine. Finally, the Commission denied claimant's request for the psychological expenses because (1) Arbitrator Simpson, in her February 23, 2017, decision, found Dr. Krupica, claimant's psychologist, not credible and (2) there were no medical records or testimony connecting the requested expenses to

the 2005 work injury. On judicial review, the circuit court of Cook County confirmed the decision of the Commission. This appeal followed.

¶ 8

III. ANALYSIS

¶ 9 On appeal, claimant argues that the Commission erred in denying his section 8(a) petition. Specifically, claimant disputes the Commission's finding that he failed to establish a causal connection between the requested medical expenses and the 2005 work accident. Claimant also argues that the Commission erred in denying his request for psychological expenses on the basis that Dr. Krupica was not credible.

¶ 10 Under section 8(a) of the Act, an employer is required to "provide and pay *** for all 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." 820 ILCS 305/8(a) (West 2016). However, to be entitled to additional compensation under section 8(a), the claimant must initially establish, by a preponderance of the evidence, some causal relationship between his or her employment and the condition of ill-being for which he or she seeks additional benefits. See *Caterpillar Tractor Co. v. Industrial Comm'n*, 129 Ill. 2d 52, 63 (1989). The Commission's determination whether to award expenses under section 8(a) of the Act is a factual inquiry to be resolved by the Commission. *City of Chicago v. Illinois Workers' Compensation Comm'n*, 409 Ill. App. 3d 258, 266-67 (2011). Likewise, whether a causal relationship exists between a claimant's employment and his or her condition of ill-being is a question of fact for the Commission. *Bolingbrook Police Department v. Illinois Workers' Compensation Comm'n*, 2015 IL App (3d) 130869WC, ¶ 52. In resolving questions of fact, it is the function 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). On review, we will not overturn a factual determination of the Commission unless it is against the manifest weight of the evidence. *Franklin v. Industrial Comm'n*, 211 Ill. 2d 272, 279 (2004). A finding is against the manifest weight of the evidence only if an opposite conclusion is clearly apparent. *Hosteny*, 397 Ill. App. 3d at 675.

¶ 11 In this case, our ability to address claimant's argument is hampered by an incomplete record. The record submitted by claimant in this appeal consists of one volume. That volume is 185 pages and principally contains documents related to the proceedings in the circuit court. As the appellant, it was claimant's duty to provide this court with a sufficiently complete record to address the issues presented on appeal. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391 (1984). In the absence of such a record, a reviewing court will presume that the order entered by the Commission was in conformity with the law and had a sufficient factual basis. *Foutch*, 99 Ill. 2d at 392; *Levy v. Illinois Workers' Compensation Comm'n*, 2014 IL App (1st) 131338WC, ¶ 11.

¶ 12 As noted, this appeal involves a challenge to the Commission's denial of claimant's section 8(a) petition, which is a factual inquiry. An issue relating to the Commission's factual findings and the basis for its legal conclusions cannot be reviewed absent a record of those proceedings. *Farris v. Illinois Workers' Compensation Comm'n*, 2014 IL App (4th) 130767WC, ¶ 74; see also *Corral v. Mervis Industries, Inc.*, 217 Ill. 2d 144, 156 (2005). The record in this case does not include a copy of the section 8(a) petition claimant filed with the Commission, a transcript of the proceedings before the Commission on the section 8(a) petition, any medical records pertaining to claimant's section 8(a) petition, the bills for the prescriptions and medical benefits claimant seeks to have paid, a transcript of proceedings from the arbitration proceedings conducted by Arbitrator Galicia and Arbitrator Simpson, or any of the medical evidence submitted at the earlier arbitration

proceedings. Because the record is incomplete, we must therefore presume that the Commission heard adequate evidence to support its decision and that its decision denying claimant's section 8(a) petition was not against the manifest weight of the evidence. *Levy*, 2014 IL App (1st) 131338WC, ¶ 11; *Farris*, 2014 IL App (4th) 130767WC, ¶ 74. Consequently, we are compelled to affirm the judgment of the circuit court, which confirmed the Commission's decision to deny claimant's section 8(a) petition.

¶ 13

IV. CONCLUSION

¶ 14 For the reasons set forth above, we affirm the judgment of the circuit court of Cook County, which confirmed the decision of the Commission.

¶ 15 Affirmed.