2024 IL App (5th) 230669WC-U
No. 5-23-0669WC
Order filed May 17, 2024

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

LAURA PARTIN,	)	Appeal from the Circuit Court
	)	of Marion County.
Appellant,	)	
	)	
v.	)	No. 22-MR-18
	)	
THE ILLINOIS WORKERS' COMPENSATION	)	
COMMISSION, *et al.*	)	Honorable
	)	Jeffrey A. DeLong,
(North American Lighting, Inc., 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*: The Commission's finding that claimant failed to prove that she suffered an at-work accident is not contrary to the manifest weight of the evidence.

¶ 2 I. INTRODUCTION

¶ 3 Claimant, Laura Partin, appeals an order of the circuit court of Marion County confirming the decision of the Illinois Workers' Compensation Commission (Commission) denying her claim for benefits under the Illinois Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq*. (West

2018)). Claimant asserts that the Commission's finding that she failed to prove she suffered a work-related accident is contrary to the manifest weight of the evidence.

¶ 4 The arbitrator ordered respondent to pay all reasonable and necessary medical expenses, including a surgery recommended by claimant's treating physician. She also awarded claimant TTD in the amount of $281.88 per week for 107-1/7 weeks, but declined to impose penalties and fees upon respondent. The Commission, with one commissioner dissenting, reversed, finding claimant to lack credibility. The circuit court of Marion County confirmed, and this appeal followed. For the reasons that follow, we affirm.

¶ 5 II. BACKGROUND

¶ 6 Claimant filed two applications for adjustment of claim, the first alleging injuries to her lower back on February 19, 2017, and, pertinent here, the second alleging injuries to her neck on February 9, 2018. Defendant disputed accident only with regard to the second claim. These cases were consolidated; this appeal concerns claimant's second claim. The arbitrator found that claimant sustained a work-related accident on February 9, 2018 (respondent did not dispute accident with regard to the first injury); however, a majority of the Commission reversed, which, after the circuit court of Marion County confirmed the Commission, led to the instant appeal. The sole issue before us is whether the Commission's determination that claimant failed to prove accident is contrary to the manifest weight of the evidence. We will confine our discussion of the facts to those relevant to the issue of accident.

¶ 7 At the arbitration hearing, claimant testified that she began working for respondent, North American Lighting, Inc., in June of 1999. She sustained a neck injury in 2010 while in respondent's employ, which resulted in a workers' compensation claim. Claimant stated that she

injured her back on February 19, 2017, when she attempted to move a trolley (a large cart used to transport automotive taillights).

¶ 8 On February 9, 2018, claimant was working. During the first two hours of her shift, they disassembled a trolley. A trolley is the "size of a small car." The next two hours were spent grinding the interior surface of a "metallizing chamber" on the trolley to remove metal build up. Claimant estimated that the grinder she used weighed six or seven pounds. While grinding, claimant was "in all different positions." Sometimes she would be "on [her] tippy toes" and "stretching as far as [she] can stretch." She would be in "unnatural positions." Claimant injured herself while she was grinding over her head. She felt burning and pain in the back of her neck. She initially thought the pain would go away, but it did not. Prior to this time, outside of her 2010 injury, claimant was not experiencing any problems with her neck. She clarified that between 2010 and 2018, she was not experiencing any problems with her neck. Following this incident in 2018, claimant sought medical care.

¶ 9 She reported her injury to her supervisor, Paul Almy, immediately. She also completed an incident report on February 14, 2018. Respondent sent her to the SSM Health Clinic, where she saw Katina Candee, a physician's assistant (PA). Claimant was prescribed anti-inflammatory medication and physical therapy. Toward the end of physical therapy, Candee recommended claimant see a specialist. Claimant then saw Dr. Gornet. Dr. Gornet sent claimant to Dr. Kaylea Boutwell for pain injections, which were not successful. Dr. Gornet is now recommending surgery.

¶ 10 On cross-examination, claimant testified that she was employed as a preventative maintenance worker on the weekend cleaning crew. The grinding she performed was for the purpose of cleaning equipment. She told Dr. Gornet that the grinder she used felt like it weighed 10 pounds. She agreed that a grinder she used weighed about 1.5 pounds. In his deposition, Dr.

Gornet characterized claimant's grinding as being similar to holding a gallon of milk out from her body for a significant amount of time. She identified another grinder that she used, which weighed about four pounds. Claimant agreed that she performed a number of tasks besides grinding while working for respondent. Claimant worked about 26 hours per week. Claimant stated that she told every doctor with whom she treated of her schedule, though this was not reflected in her medical records. Claimant acknowledged that she previously testified that they were shorthanded on the day she was injured, but, in fact, she did not know whether they "had a full crew" that day. However, she stated that she "did two of the spots." When she was filling out an accident report with Almy, he asked if claimant had recently done anything else that was difficult. Claimant told him that the previous weekend (February 3, 2018) she had assisted loading a trolley, but she had not been injured.

¶ 11 Claimant agreed that she told Almy that grinding was hurting her neck, but she "didn't have a specific date or anything." She acknowledged that one of her records from physical therapy states that the date of her accident was February 10, 2018. Claimant further acknowledged that a note in the records of PA Candee dated May 8, which she believed were copied from her physical therapy records, stated that claimant was gardening at her mother's house and her neck pain got worse when she "took a plant out." Claimant "immediately started developing headaches that would not go away." Records from physical therapy state that claimant's condition was improving until she tried to assist her mother with gardening. Dr. Gornet was not aware of the gardening incident. She did not recall whether she told Dr. de Grange (respondent's independent medical examiner (IME)) about the gardening incident. Claimant responded affirmatively when asked if she "gave [Dr. de Grange] an accident date of 2-2."

¶ 12 On redirect-examination, claimant explained that the gardening incident involved her handing her mother "two clumps of grass that would fit in the palm of [her] hand" and holding "the grass blades up while she put dirt around them."

¶ 13 Claimant next called Paul Almy, who testified that he supervises respondent's preventative maintenance crew. The crew consists of about 10 people who "clean the metalizing equipment and paint booths on the weekend while the equipment's not being used for production." He documented claimant's report of suffering an injury in a memo on the weekend it occurred, which he forwarded to his boss and human resources (HR) on Sunday morning. They did not fill out an incident report on the night claimant's injury occurred. Claimant subsequently went to HR and filled out a report on the computer. On the night claimant reported the injury to Almy, she "was talking about February 3." According to Almy, claimant "wasn't sure if she got hurt loading a carriage back onto the trolley or whether it might have been repetitive grinding."

¶ 14 Almy explained that claimant's job involved grinding a carriage. Parts of the carriage would be hard to reach for a shorter person, so they were provided with steps. He acknowledged that other parts of claimant's job did involve overhead grinding. They typically work 12-hour shifts. Almy did not recall claimant telling him that she hurt herself grinding on February 9, 2018.

¶ 15 On cross-examination, Almy stated that claimant reported her injury on February 11. He then testified that claimant did not report anything to him on February 9. Almy explained that claimant was unsure whether she hurt herself while grinding or loading a carriage the previous weekend. The grinder which claimant would have been using weighed 1.55 pounds. When claimant filled out the incident report of February 14, she listed trolley grinding as the cause, which involved the use of a heavier grinder. On February 9, Almy's crew was short two workers. It would have taken about an hour to grind a carriage under those conditions. He estimated claimant

could have been grinding for two hours on the carriage with the heavier grinder and four hours on sheet metal with the lighter grinder over the course of the weekend. Under no circumstances would claimant have been grinding for an entire shift, as there were other steps to the cleaning process. Almy estimated that an employee would grind about four hours per shift on average. He testified that the grinder used on the carriages weighed about 4.65 pounds.

¶ 16 Claimant next called Joe Splain. He holds the same position as claimant with respondent. He was not sure if he was working on February 9, 2018. He testified that they use a variety of grinders in their work. On a day that they cleaned two trolleys, they would operate a grinder for about two hours per shift.

¶ 17 On cross-examination, he agreed that Almy's records suggested that he was present on February 9, 2018. It can take from two to six hours to perform all necessary grinding, with four hours being the average for a week. Using a grinder does not require one to put a lot of pressure on the tool; rather, one guides the tool and lets it do the cleaning. Claimant typically used a set of steps so she would not have to stretch overhead. On a day they cleaned two trolleys, a worker might do 20 to 30 minutes of overhead work.

¶ 18 Splain testified that in March or April of 2018, he was in the locker room with claimant and two other workers. He heard claimant say that "she didn't really know where she got hurt, but it had to be at work because she doesn't go anywhere else or do anything else." He heard claimant express something similar "a few times."

¶ 19 The parties also submitted various of claimant's medical records. Records from SSM Health indicate that claimant presented on February 12, 2018, complaining of burning pain in her neck. She saw PA Candee and reported that "[s]he does a lot of grinding where she has to hold her hands up and look up and this maneuver causes her pain." She was prescribed prednisone and

flexeril. Claimant also commenced physical therapy on February 13, 2018, which she had been previously referred to for back pain stemming from her earlier at-work accident in February 2017. She returned to SSM Health on February 16 to follow up for her neck pain. Records from this visit state: "She states she does overhead grinding ad [*sic*] heavy lifting at work and feels this is the cause of her pain. Otherwise no specific injury." Claimant was diagnosed with a cervical sprain.

¶ 20 On March 2, 2018, claimant returned to SSM Health and saw Candee. Records from this visit state that claimant was experiencing neck pain "that started at work 2/12/18." Claimant commenced physical therapy for her neck on March 19, 2018, at SSM Good Samaritan Hospital. These records state: "[Claimant] works in a factory where they do a lot of repetitive movements. [Claimant] remembers that she was working on an overhead tote and she felt a pop in her neck." Claimant followed up with SSM Health on April 16, 2018. On this date, claimant's records state, "In previous visits[,] she has stated that she does a lot of overhead grinding and thinks this may be the cause of her pain." Further, "She denied any specific injury."

¶ 21 Claimant first saw Dr. Matthew Gornet, an orthopedic surgeon, on July 16, 2018. Dr. Gornet's records contain the following description of the origin of her neck condition:

> "She states her current problem, at least in its level of severity, began on or around 2/9/18. This was when she reported it. She was working for North American Lighting in the preventative maintenance crew. She feels her symptoms relate to work activities, particularly using a grinder, which she would often hold at chest level and above. She feels the grinder weighs about 10 pounds, but this activity seems to really aggravate her underlying condition."

Dr. Gornet's findings were "foraminal stenosis at C5-6 and C6-7." He further stated, "I have discussed with the patient how a work activity such as that described could easily aggravate an underlying condition of foraminal stenosis and disc degeneration." He added that there was no "discrete event."

¶ 22 On August 2, 2018, claimant saw Dr. Kaylea Boutwell to receive a steroid injection. She followed up with Dr. Gornet on October 1, 2018, reporting that steroid injections provided no sustained relief. Notes from this visit also state that claimant "relates her symptoms to work related activity of 2/9/18 at [North American Lighting] using a grinder." They also contain Dr. Gornet's opinion that "the patient's current symptoms are work related." Claimant saw Dr. Gornet on December 3, 2018, following a CT myelogram, which showed "large herniations at C4-5 and C5-6," which "cause cord deformation." Records from a visit on May 9, 2019, state that Dr. de Grange, respondent's medical examiner, "felt that the size and nature of claimant's herniations could easily be aggravated by her work activity." An MRI ordered by Dr. Gornet in 2018 showed herniations at C4-5 and C5-6. Dr. Gornet recommended a disc replacement at those levels. Claimant had several additional visits with Dr. Gornet, where it was noted that they were awaiting approval of the recommended surgery, as claimant had no group health insurance.

¶ 23 Claimant also submitted an evidence deposition of Dr. Gornet. He testified that he is an orthopedic surgeon specializing in spine surgery. He treated claimant, beginning on July 16, 2018. Claimant acknowledged having neck issues dating to 2010; she received an injection and her condition improved. Claimant also reported a history of low back pain arising about a year prior to the accident at issue here. Dr. Gornet ordered an MRI, which showed a large herniation at C4-5 and C5-6, that "correlated best with her symptoms of axial neck pain." He initially recommended conservative care; however, steroid injections were unsuccessful. Dr. Gornet opined that

claimant's "symptoms and requirement for treatment were causally related to her work activity of 2/9/18." Claimant's main symptoms were axial neck pain and headaches.

¶ 24 Dr. Gornet reviewed the report of Dr. Donald de Grange. He agreed with Dr. de Grange's assessment that claimant's work could aggravate her disc herniations. He noted claimant's description of her work, which she said involved holding a grinder that weighed 10 pounds at chest level and above out away from her body. He stated that this would cause cervical problems. He analogized this to holding a gallon of milk at arm's length.

¶ 25 On cross-examination, Dr. Gornet explained that his opinion was based on imaging studies, his experience, and the history provided by the patient. He added, "It assumes the history she gave me is factually correct, that she does work there and do that activity." Dr. Gornet acknowledged that he was unaware of a purported incident where claimant was gardening with her mother and felt her neck pop, after which her pain "became 10 out of 10." He noted that this event was mentioned in Dr. de Grange's report and opined that it would not be sufficient to break the causal chain between claimant's condition of ill-being and her at-work accident. He explained that this event would not cause him to alter his opinion, as claimant was already symptomatic before this incident. Dr. Gornet acknowledged that he relied on claimant's reporting of facts pertaining to her accident.

¶ 26 Dr. de Grange examined claimant on respondent's behalf. He wrote a report memorializing his examination. The report first states that claimant told Dr. de Grange that, on or about February 19, 2017, claimant injured her back "pulling up on a heavy metal bar." Subsequently, on February 9, 2018, claimant "was doing some grinding above her head when she had the onset of neck pain." Claimant also related that about a week prior to this injury, around February 2, 2018, she injured herself while "pushing a trolley that weighed greater than 2500 pounds." She was eventually

referred to Dr. Gornet, who ordered MRIs and diagnosed "at least two herniated discs in her cervical spine." She continued to work full duty until December 2018. Also, claimant suffered a "work-related injury to her cervical spine in 2010," received pain-management injections, and remained symptom free until February 2018.

¶ 27 Dr. de Grange opined that claimant's "current cervical symptoms appear to have been aggravated as a result of her customary job duties on February 9, 2018." An MRI taken in 2010 showed a herniation at C4-5 and a protrusion at C5-6. An MRI ordered by Dr. Gornet in 2018 showed herniations at C4-5 and C5-6 as well as protrusions at C3-4, C6-7, and C7-T1.

¶ 28 Dr. de Grange further opined that his "review of the medical records from the providers which I have listed reveals several somewhat concerning discrepancies and contradictions." First, he noted the discrepancy between claimant's statement indicating that she was injured on February 2 while working with the trolley and her claim that grinding on February 9 caused her neck injury. He noted that claimant continued working full time after her alleged injury. Further, records from SSM Express Care show an injury date of February 11. Her formal accident report to respondent lists an accident date of February 9. Other records variously list the ninth, eleventh, and twelfth as accident dates. Although she initially denied numbness, tingling, and weakness in the extremities, she complained of radicular pain a few days later. Records from April 16, 2018, indicated that claimant believed grinding caused her injury but also that she "denied any specific injury." Other records from May 8 list an accident date of February 12. Moreover, the physical examination from this date indicate that "the neck range of motion was intact and it was nontender." Dr. de Grange felt that this "would seem to be at odds with the patient's subjective complaints." Records also mention that claimant's "pain got much worse when she was gardening." Dr. de Grange noted, referring to claimant's gardening, "Physical therapy records also

refer to a neck injury which occurred on or about April 26, 2018." He opined that the available diagnostic studies showed a progression of claimant's preexisting condition from 2010 to the state it currently is in. He believed the surgery proposed by Dr. Gornet was reasonable, but he could not "state within any reasonable degree of medical certainty that there is a causal connection between that surgery and her work-related activities."

¶ 29 Dr. de Grange further opined that "the described/alleged work duties may have, in fact, aggravated or exacerbated the [claimant's] preexisting condition that was clearly evident on the MRI or CT myelogram." He continued, "Given the size, appearance, nature, and extent of the herniations at C4-5 and C5-6, the [claimant's] work duties on any one day may represent a mechanism of aggravation of her preexisting condition." However, he noted degenerative changes and opined, "There is a possibility the [claimant's] present condition of her neck could be explained entirely from the standpoint of the progress of the intervertebral disc degeneration." He characterized the "chronic issues that were proposed by Dr. Gornet [as] nebulous at best." He declined to opine regarding whether the surgery recommended by Dr. Gornet was related to claimant's employment with respondent. He later authored a letter asserting that his statement regarding claimant's herniations being aggravated by her job in light of their "size and nature" was not intended to establish a causal relationship between injury and employment, citing the inconsistent history of accident provide by claimant.

¶ 30 Dr. de Grange also testified via evidence deposition. He is a board-certified orthopedic surgeon. Dr. de Grange reviewed claimant's medical records and imaging studies. He noted that claimant provided inconsistent histories regarding her neck injury. He conducted his physical examination of claimant on March 25, 2019. He noted no gait abnormalities, which he regarded as important because it indicates no spinal cord compression. He noted "no significant spasm"

which indicates any tissue injuries had healed. Dr. de Grange testified that the symptom diagram claimant filled out for Dr. Gornet was inconsistent with what she related to him. He believes that consistency is "important if not critical." Claimant did not relate to Dr. de Grange that she had an incident gardening that aggravated her neck. Dr. de Grange stated that claimant reported multiple mechanisms of injury—grinding and moving the trolley. He opined that he could not find a causal relationship between claimant's injury and "the 2-9-18 work-related incident in question." According to Dr. de G/range, Dr. Gornet was unaware of the gardening incident and this was a significant event. Physical therapy records from early April 2018 state that claimant's shoulder is feeling better and her neck is looser. Dr. de Grange opined that it was possible claimant would have been at maximum medical improvement (MMI) but for the gardening incident. He stated that in his report, when he stated that work may have aggravated claimant's neck condition, he meant temporarily. Typically, a strain heals in four to six weeks. He opined there was no causal relationship between the surgery proposed by Dr. Gornet and claimant's at-work injury.

¶ 31 On cross-examination, Dr. de Grange agreed that there were no indications that claimant was malingering or that her symptoms had a nonphysiological cause. He acknowledged that his report states that "the patient's current cervical symptoms appear to have been aggravated as a result of her customary job duties on 2-9-18." Without an MRI before February 2018, Dr. de Grange could not say whether claimant's disc herniations existed before her injury of February 9, 2018. Dr. de Grange viewed MRIs taken in 2010 and following the February 2018 incident. He stated that claimant's condition had progressed, which was not surprising. Further, he agreed that they could "attribute at least some increase to her symptoms [to] the 2018 accident." However, he also stated that it would be speculative to "attribute any increase in the findings on the MRI films to the 2-9-18 incident."

¶ 32 On redirect-examination, Dr. de Grange stated he reviewed Dr. Gornet's report and it did not change his opinion. He stated that Dr. Gornet did not address the discrepancies in claimant's reported history that he identified. Dr. de Grange stated that the incident on February 9, 2018, resulted in a temporary aggravation of the condition of claimant's neck. Nothing in Dr. Gornet's records indicated that he was aware of the gardening incident. Dr. de Grange opined that he would not offer claimant neck surgery due largely to "the discrepancies and the contradictions in the employee's history,"

¶ 33 The arbitrator awarded claimant benefits under the Act. She ordered respondent to pay all reasonable and necessary medical expenses, including the surgery recommended by Dr. Gornet. She also awarded claimant TTD in the amount of $281.88 per week for 107 1/7 weeks, and she declined to impose penalties and fees upon respondent.

¶ 34 Pertinent here, the arbitrator found that claimant suffered an accident arising out of and in the course of her employment with respondent. She recognized that claimant "initially exhibited uncertainty regarding the definite time, place and cause of her injury." However, the arbitrator found that claimant "satisfied these elements and resolve such questions upon her filing of her written report of injury and the filing of her Application for Adjustment of Claim, which were consistent with her reports of injury to her physicians." The arbitrator continued, "Although there are varying reports of the injury and related circumstances, the records and testimony consistently reflect that [claimant] was injured at work performing duties distinctly related to her employment." She added, "[A]lthough there are variances in the minutiae related to [claimant's] reported accident, such as which grinder she was using at the time, the exact length of time spent grinding, which equipment was being maintained at the time, and the date she reported the injury, the record shows that [claimant] consistently believed and reported that she suffered a work injury to her neck

in February 2018." She further noted that respondent's witnesses, "though diverging on some points," corroborated claimant's testimony "regarding her performance of overhead work and the extended duration of grinding activities." The arbitrator acknowledged that claimant overestimated the weight of her work tools; however, she found it significant that claimant's male coworkers "saw fit to accommodate [claimant] and ease the burden of her duties in various ways." She noted that such accommodation would not be necessary "had not the grinding task involved some degree of difficulty for [claimant]." Finally, the arbitrator stated that she "place[d] weight on Dr. de Grange's acknowledgment that the reported injury on 2/9/18 could have aggravated [claimant's] cervical condition."

¶ 35 The arbitrator then went on to find that claimant had proved her condition of ill-being was causally related to her employment. She relied on the chain of events whereby claimant was in a state of relative good health, she suffered an at-work accident on February 9, 2018, and subsequently experienced a condition of diminished health. The arbitrator dismissed the alleged gardening incident as "a mundane activity that, but for her work injury, would have been entirely inconsequential with respect to her symptoms." The arbitrator then awarded claimant TTD and medical expenses, but denied her request for penalties and fees.

¶ 36 The Commission, with one commissioner dissenting, reversed the arbitrator's decision, finding that claimant did not carry her burden of proving that "an accident occurred that arose out of and in the course of her employment on February 9, 2018." The Commission noted that in finding that claimant sustained a compensable accident, "the Arbitrator determined that [claimant] successfully resolved any uncertainty and inconsistencies regarding her date and mechanism of injury when she completed the February 14, 2018, accident report and Application for Adjustment of Claim." It disagreed with this conclusion, stating, "[T]he Commission finds [claimant's]

testimony as well as her reports to her medical providers regarding her date and mechanism of injury lacked credibility." According to the Commission, "[T]he Arbitrator greatly minimized the numerous and significant inconsistencies evident throughout [claimant's] testimony, her reports to her medical providers, and her statements during the Section 12 examination." It noted the Arbitrator's statement that there were "variances in the minutiae related to [claimant's] reported accident, such as which grinder she was using at the time, the exact length of time spent grinding, which equipment was being maintained at the time, and the date she reported the injury." The Commission rejected the arbitrator's characterization of these facts as minutiae, noting that they "involve every element critical to [claimant] proving she sustained a compensable work injury on the alleged date of accident." It further observed that claimant's testimony was rebutted by that of Splain and Almy. It noted inconsistencies in claimant's testimony regarding when she reported the alleged accident to Almy. It also observed that claimant referenced an event occurring a week earlier when she was moving a trolley when she spoke with Almy about her injury. Claimant was also inconsistent about what she told Almy about which grinder she was using when her neck pain began. The Commission credited Almy's testimony that claimant first reported the accident on February 11, 2018, rather than two days earlier as claimant asserted, as Almy's testimony was corroborated by the fact that he sent an email to HR about it the next morning.

¶ 37 The Commission also noted Splain's testimony that he heard claimant state on multiple occasions that she did not know how or when she injured her neck. Medical records from February 12, 2018, indicate that claimant reported pain in her neck but did not identify the date it first occurred and she denied a specific injury. A few days later she referenced heavy lifting as a cause of her condition. Subsequently, medical records indicate February 12 as the onset date of her injury. Records from physical therapy, however, list February 10. These records also mention, for

the first time, that claimant felt a "sudden pop" while working overhead. When she first saw Dr. Gornet, she denied any specific trauma. The Commission also noted that Dr. Gornet based his opinion on causal connection on claimant's reported mechanism of injury. Further, it observed that Dr. de Grange "credibly testified that due to the numerous inconsistent statements [claimant] made during the Section 12 examination and throughout the medical records, it was not possible to determine to any degree of medical certainty that [claimant's] cervical condition and need for ongoing medical care is causally related to any injury that may have occurred on February 9, 2018."

¶ 38 Both Almy and Splain contradicted claimant on the amount of time she spent grinding, particularly overhead. It noted their testimony that respondent provided steps for employees to use to reach higher areas. Claimant asserted that she used a grinder weighing six or seven pounds; however, the evidence indicated that the grinder claimant used most often weighed 1.55 pounds and the heaviest one weighed 4.65 pounds. In light of these many inconsistencies, the Commission found that claimant lacked credibility and found she failed to prove she sustained an injury arising out of and in the course of her employment on February 9, 2018.

¶ 39 One commissioner dissented. He found claimant credible, agreeing with the arbitrator that the inconsistencies identified by the majority concerned minor matters. He found it most compelling that in the seven years leading up to February 2018, claimant sought no medical treatment for her cervical spine. This changed on the date of accident, after which claimant sought care a few days later. The dissenting commissioner pointed out that there was no evidence that her condition was caused by something other than a work-related accident.

¶ 40 The circuit court of Marion County confirmed the Commission. This appeal followed.

¶ 41 III. ANALYSIS

¶ 42 At issue in this appeal is whether the Commission correctly found that claimant failed to carry her burden of proving accident. A claimant bears the burden of proving each and every element of his or her claim by a preponderance of the evidence. *GTE Automatic Electric v. Industrial Comm'n*, 134 Ill. App. 3d 9, 13 (1985). Whether an accidental injury arising out of and in the course of employment occurred presents a question of fact. *Id.* at 12. As such, we will not disturb such a decision unless it is contrary to the manifest weight of the evidence. *Id.* A decision is against the manifest weight of the evidence only if an opposite conclusion to the Commission's is clearly apparent. *Mobile Oil Corp. v. Industrial Comm'n*, 327 Ill. App. 3d 778, 789 (2002). It is primarily the role of the Commission to weigh evidence, assess the credibility of witnesses, and resolve conflicts in the evidence. *Compass Group v. Illinois Workers' Compensation Comm'n*, 2014 IL App (2d) 121283WC, ¶ 18. A reviewing court may not substitute its judgment for the Commission simply because other inferences than those drawn by the Commission might be supported by the evidence unless the Commission's inferences are against the manifest weight of the evidence. *Martin v. Industrial Comm'n*, 227 Ill. App. 3d 217, 219 (1992). Here, we cannot say that a decision opposite to the Commission's is clearly apparent.

¶ 43 Quite simply, judging claimant's credibility was an issue squarely within the province of the Commission. *Hosteny v. Illinois Workers' Compensation Comm'n*, 397 Ill. App. 3d 665, 674 (2009); *Williams v. Industrial Comm'n*, 244 Ill. App. 3d 204, 209 (1993). The Commission documented the numerous inconsistencies on which it based its assessment of claimant's credibility. Specifically, it cited claimant's various reports of the date of injury and the mechanism of injury (grinding as opposed to working with the trolley a week earlier) both to her employer and to her medical providers. It noted that claimant's testimony was contradicted by the testimony of

other witnesses (Splain and Almy). As the Commission had a reasoned basis to conclude that claimant lacked credibility, it is impossible for us to say that an opposite conclusion is clearly apparent.

¶ 44 Moreover, claimant's lack of credibility pervaded her entire case. It directly impacted upon her testimony regarding when and how the alleged accident occurred. Further, the Commission found that claimant lacked credibility in what she reported to her medical providers. We note that Dr. Gornet stated that in forming his opinions, he assumed that "the history [claimant] gave [him was] factually correct, that she does work there and do that activity." Thus, claimant's lack of credibility undermines the reliability of Dr. Gornet's opinions, as an expert's opinion is only as valid as its basis. *Gross v. Illinois Workers' Compensation Comm'n*, 2011 IL App (4th) 100615WC, ¶ 24.

¶ 45 Like the arbitrator and the dissenting commissioner, claimant contends that these inconsistencies concern only minor matters. The Commission found otherwise, pointing out that they pertain to such things as when the accident occurred and the mechanism of injury. Of course, whether an accident occurred is an essential element of claimant's claim. *Stapleton v. Industrial Comm'n*, 282 Ill. App. 3d 12, 15 (1996). Thus, the Commission's decision to attach great significance to such inconsistencies is not contrary to the manifest weight of the evidence.

¶ 46 Respondent acknowledges that claimant overestimated the weight of her tools. However, she notes that the record shows that male employees often accommodated her at work, showing that the work was onerous for her, whatever the correct weight of the tools was. We do not doubt that the work claimant performed was physically demanding; however, that, in itself, does not necessarily diminish the significance of the actual weight of the tool as it pertained to the mechanism of injury, particularly as it was relevant to an opinion an expert might offer. We note

Dr. Gornet's analogy of holding a gallon of milk away from the body as being representative of claimant's work. Moreover, to the extent such facts are relevant to the causation of a medical problem, we owe heightened deference to the Commission due to its well-recognized expertise regarding medical matters. *Long v. Industrial Comm'n*, 76 Ill. 2d 561, 566 (1979). Further, to the extent claimant consistently asserted her tools weighed more than they, in fact, did, the Commission could infer that claimant was attempting to overstate the effect her work had upon her, which, in turn, supports an adverse inference about her credibility.

¶ 47 Like the dissenting commissioner, claimant relies on the reasoning that a chain of events showing a period of good health, followed by some incident, and a subsequent condition of relative ill health, supports an inference that the incident caused the degeneration in health. See *International Harvester v. Industrial Comm'n*, 93 Ill. 2d 59, 64-64 (1982). This well-known inference is often used to establish causation. See *id.*; *Kawa v. Illinois Workers' Compensation Comm'n*, 2013 IL App (1st) 120469WC, ¶ 98. At issue here is the occurrence of the accident. At best, claimant's change in health on or around February 9, 2018, supports an inference that something changed at that time, whether it was an industrial accident, the progression of the degenerative process, or something else. It was claimant's burden to establish what that "something" was. *Stapleton*, 282 Ill. App. 3d at 15.

¶ 48 Claimant asserts that the Commission failed to give adequate weight to Dr. de Grange's acknowledgment that the injury reported by claimant on February 9, 2018, could have aggravated her cervical spine. While it is true that he did make such a statement, it is also true that he opined that any aggravation would have been temporary. Thus, we do not agree with claimant that the Commission was required to attribute great weight to Dr. de Grange's acknowledgment.

Moreover, as noted, assigning weight to evidence is primarily the function of the Commission. *Compass Group,* 2014 IL App (2d) 121283WC, ¶ 18.

¶ 49 Claimant contends that the Act should be given a liberal construction to achieve its goals. See *Hagene v. Derek Polling Construction*, 388 Ill. App. 3d 380, 383 (2009). We have no quarrel with this principle, but fail to see its applicability here. We are not construing any provision of the Act. At issue here is claimant's obligation to prove accident by a preponderance of the evidence. *GTE Automatic Electric*, 134 Ill. App. 3d at 13. Claimant provides no support for the proposition that she should be allowed to prevail on less proof than that. Claimant does suggest that "it is not uncommon nor unreasonable that a claimant may have doubts or confusion regarding the etiology of his or her injury at first blush." While true, such considerations are matters of weight, which, again, are primarily for the Commission to resolve. *Compass Group*, 2014 IL App (2d) 121283WC, ¶ 18. Parenthetically, claimant takes issue with the Commission drawing an adverse inference from the fact that she amended her Application for Adjustment of Claim to remove the trolley incident that preceded the grinding incident as the accident at issue. Claimant points out, correctly, that pleadings can be amended to conform with proofs. See *Freeman United Coal Mining Co. v. Industrial Comm'n*, 297 Ill. App. 3d 662, 667 (1998). If this were the only inconsistency in claimant's identifying a date of injury, we might find this argument persuasive; however, as set forth above, such inconsistencies pervade claimant's reporting of the alleged accident.

¶ 50 Claimant cites *Farris v. Illinois Workers' Compensation Comm'n*, 2014 IL App (4th) 130767WC, in advocating for a different result (claimant's failure to provide pinpoint citations to the portions of the case she relies on needlessly hinders our review). That case is distinguishable in that the Commission awarded the claimant benefits under the Act and the reviewing court

affirmed the Commission whereas here, claimant is asking that we reverse. *Id.* ¶ 76. In any event, *Farris* bears similarities to this case in that it turned on the claimant's credibility. *Id.* ¶ 69. The arbitrator denied recovery, and the Commission, with a dissent, reversed. *Id.* The Commission dismissed "inconsistencies in the claimant's testimony" as "insignificant." *Id.* The trial court reversed, but this court reinstated the decision of the Commission. *Id.* ¶ 76. Ultimately, *Farris* simply stands for the proposition that we owe deference to the decision of the Commission (even where there is a dissent and the arbitrator disagrees), which is the main principle we are relying upon here. We further note that *Farris* also involved an incomplete record, prompting the Commission to hold, "Without a transcript of the claimant's testimony, we cannot conclude that the Commission's findings based on his testimony were against the manifest weight of the evidence." *Id.* ¶ 74. Thus, any analogy between the facts and posture of *Farris* and this case are undermined by this significant difference.

¶ 51 Having considered claimant's arguments, we conclude that she has failed to convince us that an opposite conclusion to the Commission's is clearly apparent.

¶ 52 IV. CONCLUSION

¶ 53 In light of the foregoing, the judgment of the circuit court of Marion County confirming the decision of the Commission is affirmed.

¶ 54 Affirmed.