

**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  
FIFTH DISTRICT  
WORKERS' COMPENSATION COMMISSION DIVISION

---

BAHLER TRUCKING,	)	Appeal from the
	)	Circuit Court of
Appellant,	)	Vermilion County
	)	
v.	)	No. 23MR11
	)	
	)	
THE ILLINOIS WORKERS' COMPENSATION	)	
COMMISSION <i>et al.</i> ,	)	Honorable
	)	Mark S. Goodwin,
(Larry Hardwick, Appellee).	)	Judge Presiding.

---

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

**ORDER**

¶ 1 *Held:* The appellate court reversed, finding the Commission's initial decision was not against the manifest weight of the evidence.

¶ 2 In April 2016, claimant, Larry Hardwick, filed an application for adjustment of claim pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2014)), seeking benefits from his employer, Bahler Trucking (Employer), regarding his low back and right hip injury from an accident on December 2, 2015. Following a January 2017 hearing, the arbitrator found claimant's condition of ill-being was not causally related to the December 2, 2015, work

accident. On review, the Illinois Workers' Compensation Commission (Commission) affirmed and adopted the arbitrator's decision without changes. The circuit court of Livingston County reversed the Commission's decision as against the manifest weight of the evidence and remanded the matter for further proceedings. On remand, the Commission reversed the arbitrator's decision, finding claimant's current condition of ill-being was causally related to his December 2, 2015, work accident. Upon judicial review by the circuit court of Vermilion County, the court affirmed the Commission's decision. On appeal, Employer argues the Commission's initial decision was not against the manifest weight of the evidence.

¶ 3

## I. BACKGROUND

¶ 4

### A. Hearing Testimony

¶ 5

Claimant testified he had been a professional tractor-trailer driver for 30 years. He primarily transported livestock. On December 2, 2015, he had been transporting approximately 90 sows from Courtland, Virginia, to Peoria, Illinois. Claimant had been eating almonds when he reached the border of Indiana and Illinois. He described feeling short of breath and thought he was "having a heart attack." Claimant stated he pulled off the road and onto the ramp at mile marker 200 on Interstate 74. He waited for several minutes and believed he was "okay" to continue driving. Upon commencing driving again, he suddenly gasped for air and failed to follow the curve of the ramp. Claimant believed he was traveling about 15 miles per hour when his tractor-trailer went off the road. The tractor-trailer landed on its right side with claimant still in the driver's seat, secured by his seatbelt. Claimant used his right leg to push against the dash of the truck so he could disconnect his seatbelt. He then used a hammer he found in the cab of his truck to break the windshield. Claimant discovered he could not fit through the windshield, so he pushed the driver's side door open and climbed out. Claimant described feeling a sharp pain in his hip when he was

exiting the truck.

¶ 6 After exiting his truck, claimant called Employer and the police. He described having pain in his right hip, “down [his] right leg,” in his “groin area,” and in his back. The pain became worse, and eventually, an ambulance was called that took claimant to the hospital. At the hospital, claimant described his pain to a nurse as a 10 out of 10. Claimant stated the physician only looked at a large bruise on his right buttock, but he did not receive any “real treatment” during the emergency room visit. Claimant denied receiving any medication and denied undergoing X-rays while at the hospital.

¶ 7 Afterwards, claimant continued to experience pain, including in his stomach area. He had previously had surgery to repair a hernia. He visited Harrison County Hospital four days later. Claimant denied receiving any treatment during this hospital visit but was referred to his primary care physician, Dr. Lisa Clunie. He visited Dr. Clunie a few days later for concerns related to a possible hernia, though he did convey to Dr. Clunie he had back and hip pain. Dr. Clunie referred claimant for X-rays for a suspected hernia and a visit with a surgeon, Dr. John Gonzaba. Dr. Gonzaba explained his hernia would be “okay,” and claimant did not receive any further treatment regarding a hernia.

¶ 8 Claimant then visited with nurse practitioner Jennifer Murphy. Murphy ordered claimant off work at the time, referred him for further diagnostic testing, and prescribed him pain medication. He denied claiming to Murphy he was experiencing pain in any of his upper extremities. Murphy referred claimant to Dr. Joseph Finizio. Claimant denied telling Dr. Finizio his pain was alternating from his right leg to his left leg. Claimant stated his right leg pain was constant, and he was experiencing occasional cramping in his left leg. Dr. Finizio ordered physical therapy, which claimant explained provided some relief. Dr. Finizio also ordered three epidural

injections, but claimant was only able to obtain one.

¶ 9 Claimant was then referred by Employer to Dr. Morris Soriano. After visiting Dr. Soriano, no further medical treatment was authorized. Claimant's employment was terminated, and his health insurance was cancelled. At his attorney's request, claimant sought a second opinion from Dr. Jason Seibly.

¶ 10 B. Medical Records

¶ 11 1. *Carle Foundation Hospital*

¶ 12 Medical records from Carle Foundation (Carle) Hospital for the date of the accident showed claimant had complained of "back pain from being in his seatbelt" and from loading the hogs into the trailer. Records from first responders showed claimant complained he was experiencing pain in his mid-back radiating down his right leg. Additionally, the records indicated he had complained his back pain was a 9 out of 10. However, notes from the nurse indicated he had stated his pain at rest and with activity were both 10 out of 10. The medical notes also indicated claimant's exam was negative for back pain, with a normal range of motion. He was given an injection of Toradol for pain. He was diagnosed with a contusion to his right buttock and a ventral incisional hernia.

¶ 13 2. *Harrison County Hospital*

¶ 14 Medical records from Harrison County Hospital for December 6, 2015, four days after the accident, showed claimant had complained of abdominal and right-hip pain related to a vehicle accident. Specifically, he complained of umbilical pain and referenced a "bulge" where he had previously had a hernia. Claimant underwent blood work, an X-ray, and a computed tomography (CT) scan, which revealed the presence of a hernia. He was referred to his primary care physician for hernia treatment. A pain assessment showed claimant complained of his pain

being 8 out of 10.

¶ 15 Findings from claimant's X-ray revealed a "mild grade 1 spondylolisthesis of the L5 on S1 with possibly spondylotic defects which is probably congenital." A magnetic resonance imaging (MRI) report showed multilevel degenerative disk disease and facet joint disease. The MRI also showed a "grade I anterior spondylolisthesis of L5 on S1 due to pars defects" and "small left paracentral dis[k] protrusion at L4-L5."

¶ 16 *3. Dr. Lisa Clunie*

¶ 17 Dr. Clunie's medical records from December 9, 2015, one week after the accident, showed claimant had presented with moderate and unchanged abdominal pain related to the accident. Claimant had reported he experienced more pain with the hernia, which was, since the accident, "now larger, now protruding at the navel." Although claimant made no complaints about back or leg pain, Dr. Clunie's report indicated he had mentioned experiencing joint and right hip pain after the accident. The report noted a normal range of motion and a normal gait, with no musculoskeletal or neurological concerns.

¶ 18 On December 21, 2015, claimant returned to Dr. Clunie's office, where he was treated by nurse Jennifer Murphy for a chief complaint of back pain. A diagnosis of acute lower back pain at the right sacroiliac joint was added to his records. Murphy prescribed tramadol for pain and ordered claimant off work.

¶ 19 *4. Dr. John Gonzaba*

¶ 20 Dr. Gonzaba's records from an evaluation of claimant on December 15, 2015, six days after claimant initially saw Dr. Clunie, indicated claimant complained of umbilical pain. However, Dr. Gonzaba found no evidence of a true hernia and no treatment was prescribed. Dr. Gonzaba's records did not mention any indication of back or leg pain and showed claimant

demonstrated a normal range of motion.

¶ 21 *5. Dr. Joseph Finizio*

¶ 22 Dr. Finizio's records showed claimant had complained of low back pain radiating down both legs. Claimant reported a pain level of 7 out of 10. Dr. Finizio's notes indicated his MRI showed spondylolisthesis at L5-S1 and stenosis at L4-L5. Dr. Finizio referred claimant to physical therapy. Upon returning to Dr. Finizio, claimant reported physical therapy had not helped. Dr. Finizio recommended a course of lumbar epidural blocks, which, after one injection, claimant reported made no improvement.

¶ 23 *6. St. Vincent Salem Hospital*

¶ 24 Physical therapy notes indicated claimant complained of pain across his right buttocks and down his right leg, but "occasionally" down both legs. Claimant had described the pain as feeling like an "electrical fence" down both legs.

¶ 25 *7. Dr. Morris Soriano*

¶ 26 Dr. Soriano's independent medical evaluation report from April 22, 2016, indicated he had reviewed all of claimant's prior medical records. Addressing whether he believed there was a causal relationship between claimant's complaints and the accident on December 2, 2015, Dr. Soriano wrote:

“[Claimant] sustained unverifiable traumatic soft tissue injuries to the right buttocks and an unverifiable injury to the soft tissues of the lumbosacral spine. This would include a sprain or a strain of the muscles, ligaments, and tendons. There is no objective evidence that his pre-existing spondylolisthesis was aggravated. Complaints on some occasions of bilateral lower extremity pain is inconsistent with an acute aggravation of the spondylolisthesis. The onset of lower extremity pains,

from the records, does appear to be somewhat delayed. Nonetheless, [claimant's] complaints are again not associated with any neurological deficit and the alternating right and left lower extremity complaints do not correspond with the accident in my opinion.”

¶ 27 Dr. Soriano further opined:

“Based upon his normal examination and three positive Waddell’s signs, I do not believe [claimant] requires any further treatment related to the December 2, 2015 incident. I believe he has recovered and his subjective complaints have no correlation or verification with the examination performed today or any examination performed by his treating physicians. I believe that, objectively, he has reached a point of maximum medical improvement related to the soft tissue injuries.”

¶ 28 Dr. Soriano commented that claimant’s “alternating histories” presented red flags. Specifically, claimant told Dr. Soriano no hogs had escaped after the accident but told another physician he had to help put the hogs back into the trailer. Additionally, claimant’s alternating right and left lower extremity complaints and three positive Waddell’s signs raised “red flags as to the significance of [claimant’s] current complaints.”

¶ 29 *8. Dr. Jason Seibly*

¶ 30 Dr. Seibly’s notes showed claimant presented with right low back pain that radiated down his right leg. Claimant stated his back pain started “[a]pproximately 1-2 days” after he injured his abdominal area during the accident on December 2, 2015. At the time of the accident, his abdominal pain was more intense. Dr. Seibly found claimant’s MRI to be unremarkable. Based on the MRI and physical examination, Dr. Seibly found claimant’s pain stemmed from the right

sacroiliac joint. He recommended claimant apply ice to the affected area “3-4 times a day,” take prescribed anti-inflammatory medication, and submit to a course of three steroid injections into the right sacroiliac joint.

¶ 31 *9. Central Illinois Neurohealth Sciences*

¶ 32 Physical therapy notes indicated claimant had shown some improvement with physical therapy. Notes from his September 13, 2016, session indicated claimant had stated the pain moved from his right hip to his left hip.

¶ 33 *C. Evidence Depositions*

¶ 34 *1. Deposition of Dr. Seibly*

¶ 35 Dr. Seibly testified he operated a general neurosurgery practice treating disorders of the brain, spine, and nerves. He stated he “perused” claimant’s medical records “very briefly” prior to his August 29, 2016, deposition. Dr. Seibly recalled claimant had significant abdominal pain immediately following his accident. Claimant had also reported “some back pain” immediately after the accident, which worsened several days later. Dr. Seibly stated two mechanisms could explain claimant’s sacroiliac joint injury. First, inflammation and pain can occur from leaning forward and twisting, which Dr. Seibly believed claimant would have had to do to free himself from the seatbelt. Second, if claimant forced the door of his truck open with his right leg, he could have strained the sacroiliac joint. Dr. Seibly explained claimant’s previous treatment did not provide relief because it focused on treating his lumbar spine, specifically nerve root irritation, which was not the source of claimant’s pain.

¶ 36 On cross-examination, Dr. Seibly stated there was “no objective abnormality” to address regarding claimant’s condition and there were no lumbar spine symptoms. Dr. Seibly stated physical therapy for a lumbar spine condition “may or may not” have a therapeutic effect



on a sacroiliac joint issue. He confirmed he had not reviewed claimant's prior physical therapy or neurosurgical medical records, but he stated he would not expect left-side pain from a right-side sacroiliac joint issue. Dr. Seibly agreed the sacroiliac joint diagnosis was a new diagnosis.

¶ 37 Dr. Seibly agreed with Dr. Soriano's opinion lumbar surgery was not reasonable and necessary as a result of claimant's accident. He also agreed with Dr. Soriano there was no objective evidence that claimant's spondylolisthesis was aggravated. However, he disagreed that bilateral lower extremity pain was inconsistent with acute aggravation of spondylolisthesis. He noted claimant did not have any bilateral lower extremity pain.

¶ 38 *2. Deposition of Dr. Soriano*

¶ 39 Dr. Soriano, a neurosurgeon, testified he performed an independent medical examination on claimant on April 13, 2016. Dr. Soriano made notes questioning claimant's truthfulness, specifically noting a discrepancy about whether claimant had helped to secure the escaped hogs after the accident and claimant's failure to report back or leg pain during the December 8, 2015, exam. According to Dr. Soriano, he performed a "[Flexion, Abduction, External Rotation, and Extension (FABERE)] maneuver" on claimant, which revealed "pain in the right hip on both sides." Dr. Soriano explained Waddell's testing is used to evaluate inappropriate illness behavior and symptom exaggeration. He stated claimant "scored three out of five positive," which indicated poor surgical outcomes and symptom exaggeration. He continued that symptom exaggeration is "basically the patient attempting to portray a condition of ill-being that does not exist on an organic basis."

¶ 40 Dr. Soriano believed the delayed onset of claimant's lower extremity pain was not consistent with any aggravation of his spondylolisthesis. Further, in Dr. Soriano's opinion, claimant's MRI findings from December 30, 2015, were not related to the accident from December

2, 2015. Specifically, he stated the MRI was consistent with a “degenerative aging finding” due to claimant’s age. Dr. Soriano believed eight weeks of physical therapy and/or medication plus work restrictions had been appropriate. He opined the single epidural, the emergency room evaluation, visits with his primary care physician and neurologist, and the MRI and X-rays were reasonable. Beyond what claimant had already undergone, Dr. Soriano found no further treatment was necessary. He concluded claimant required no further time off work or work restrictions and the accident had resulted in no permanent disability. Dr. Soriano stated:

“[S]ignificantly different histories, whether the hogs actually were out of the truck or not in the truck, the difference in the information in the chart about the brake not being set versus him coughing when he was driving along the ramp, the three positive Waddell’s signs, and the alternating right and left lower extremity complaints, I think all were significant red flags in terms of what was actually occurring in [claimant’s] case.”

Dr. Soriano also advised surgery would not be recommended for claimant.

¶ 41 On cross-examination, Dr. Soriano admitted claimant complained of lower back pain immediately after the accident and again when he visited Harrison County Hospital four days later. He also noted two different medical records, which indicated claimant had complained of radiating pain to his upper extremities. The doctor conceded claimant’s complaints of pain down both legs were concurrent, not alternating. He stated, “The straight leg raising is negative in the sitting position, but positive in the supine position. That means he’s faking the exam. That’s exactly the same exam whether you’re sitting down or laying down. So if he has pain on one and not the other, he’s faking.” Dr. Soriano then discussed the “FABERE maneuver” and opined:

“It’s sometimes used to discern sacroiliac joint, but his was positive for the right SI

joint pain on both the right and left side of testing, which is not really an objective finding because the left side shouldn't have had any effect upon the right SI joint and shouldn't have had any effect upon the right hip. So, again, is he faking that exam and manufacturing a complaint for nonorganic reasons? I mean, I suspect so.”

¶ 42 When asked about truncal rotation to the right and left producing right low back pain, Dr. Soriano explained:

“If I'm performing the standard Waddell's tests which I have done thousands and thousands of times, and he complains of back pain on the right when I do a simulated truncal rotation to the right or the left, he's faking illness. It's not possible. \*\*\*

It's not possible to create right low back pain when you simulate truncal rotation to the right and left. It's not possible to have a positive straight right leg raising in a supine position, but not on a sitting position. That's been proven scientifically by Dr. Waddell. It's been accepted worldwide. He's faking illness. That's what I was getting at.”

¶ 43 On redirect examination, Dr. Soriano noted records from Carle on the date of the accident showed claimant complained of 10 out of 10 for pain, but the examiner noted claimant was negative for back pain or gait problems. The exam also noted a normal range of motion, no tenderness, no swelling, and a normal neurological exam, with no reference to back pain. Dr. Soriano stated this was consistent with a nonorganic disease. He explained a 10 out of 10 pain complaint was not reasonable for someone who was functional and had received the findings noted in the emergency room visit at Carle. He agreed someone with nonorganic pain would not benefit from physical therapy. He also noted there were “objective things that you would find if someone

were truly having 10 out of 10 pain or even 7 out of 10 pain,” but he could not find any objective signs supporting claimant’s pain in the medical records.

¶ 44 D. Procedural Posture

¶ 45 1. *Arbitrator’s Findings*

¶ 46 The arbitrator addressed four disputed issues: (1) whether claimant’s condition of ill-being was causally related to his injury on December 2, 2015, (2) whether medical services provided to claimant were reasonable and necessary, (3) whether claimant was entitled to prospective medical care, and (4) whether Employer was due any credit. Regarding the causal relationship to claimant’s accident, the arbitrator found claimant incredible and Dr. Soriano’s opinion more persuasive than Dr. Seibly’s.

¶ 47 The arbitrator noted a myriad of inconsistencies in claimant’s testimony and medical records. For example, claimant had reported some improvement from physical therapy, but he told Drs. Finizio, Soriano, and Seibly that physical therapy provided no relief, which prompted Dr. Finizio to order epidural injections. Claimant stated he received no “real treatment” and no medication at Carle, but the records show he received a Toradol injection. Further, the records showed claimant had full range of motion, no gait problems, and no back pain upon examination. Claimant again testified he received no “real treatment” at Harrison County Hospital a few days after the accident, but the records indicated he received an X-ray and a CT scan, which were both negative. Claimant denied having a normal range of motion, but the records indicated he did. Claimant denied complaining of bilateral leg pain, but physical therapy records showed he complained of an “electrical fence” sensation down both legs. Claimant testified he had told his medical providers his hernia was a preexisting condition, but the records showed he had complained of a new “bulge” just after the accident.

¶ 48           Upon finding claimant incredible, the arbitrator noted the only evidence supporting his claim was Dr. Seibly's opinion. However, Dr. Seibly's opinion was based on the veracity of claimant's reporting to him, as he had not reviewed claimant's prior medical records. Dr. Seibly had admitted his diagnosis was a new diagnosis based on symptoms or complaints that were not present when claimant was examined by previous physicians. The arbitrator also noted Dr. Soriano was in a better position to give a comprehensive opinion, given he had reviewed all of claimant's medical records. Furthermore, Dr. Soriano's deposition showed claimant had demonstrated significant symptom exaggeration.

¶ 49           The arbitrator determined claimant suffered only soft-tissue injuries to his lower back and right buttock from the December 2, 2015, accident. Further, the arbitrator found those injuries had resolved by April 13, 2016, and thus, claimant's current condition of ill-being was not causally related to the December 2 work accident.

¶ 50           The arbitrator found Employer was responsible for medical services rendered from December 2, 2015, through April 13, 2016, as outlined by Dr. Soriano in his report. The arbitrator denied prospective medical care. Regarding temporary total disability (TTD) benefits, the arbitrator noted claimant was not taken off work until December 21, 2015, by Murphy. By adopting Dr. Soriano's opinion that claimant was capable of returning to work as of April 14, 2016, the arbitrator awarded TTD benefits from December 22, 2015, through April 13, 2016. The stipulated benefits paid by Employer justified a credit of \$562.20 for a TTD overpayment.

¶ 51           The arbitrator denied claimant benefits, finding (1) he lacked credibility, thereby failing to establish a causal connection, and (2) because claimant had failed to prove his current condition was causally related to his work accident, prospective medical care should be denied.

¶ 52 *2. Commission's Initial Findings*

¶ 53 The Commission affirmed and adopted the arbitrator's findings without changes.

¶ 54 *3. Circuit Court of Livingston County*

¶ 55 The circuit court reversed the Commission, finding the decision was against the manifest weight of the evidence, and remanded the matter for further proceedings. Employer appealed the decision of the circuit court of Livingston County. The appellate court dismissed the appeal, finding the circuit court's decision did not constitute a final, appealable order, and, therefore, it lacked jurisdiction. See *Hardwick v. Illinois Workers' Compensation Commission*, 2019 IL App (4th) 180624WC-U.

¶ 56 *4. Commission's Findings on Remand*

¶ 57 On remand, the Commission found claimant to be credible and Dr. Seibly's opinion to be more persuasive than Dr. Soriano's. It found no evidence showed claimant had issues with the right sacroiliac joint prior to the December 2, 2015, accident, and only after the accident had he complained of pain in his back, right hip, and right leg. These complaints were corroborated by records from Harrison County Hospital and Dr. Clunie, specifically where Dr. Clunie noted worse pain at claimant's right sacroiliac joint. The Commission noted Dr. Soriano had conceded claimant's lower extremity complaints were not delayed, and his belief that claimant had "alternating" pain in his legs was actually just additional pain occasionally down his left leg.

¶ 58 *5. Circuit Court of Vermilion County*

¶ 59 Upon Employer's appeal, the circuit court affirmed the Commission's decision.

¶ 60 This appeal followed.

¶ 61 **II. ANALYSIS**

¶ 62 Employer claims the Commission's initial finding that claimant's condition of ill-

being was not causally related to the December 2, 2015, accident was not against the manifest weight of the evidence and was erroneously reversed by the circuit court. We agree.

¶ 63 On appeal, the central issue is whether the Commission's initial decision was against the manifest weight of the evidence. Indeed, when the circuit court reverses the Commission's initial decision and the Commission subsequently enters a new decision on remand, a reviewing court must first determine whether the Commission's initial decision was proper. *Noonan v. Illinois Workers' Compensation Comm'n*, 2016 IL App (1st) 152300WC, ¶ 15; *Vogel v. Industrial Comm'n*, 354 Ill. App. 3d 780, 785-86 (2005). As we have previously held, "[i]f it was proper, then the Commission's decision on remand was void and must be vacated." *Southern Glazer's Wine & Spirits of Illinois, LLC v. Illinois Worker's Compensation Comm'n*, 2021 IL App (5th) 200418WC-U, ¶ 69.

¶ 64 The purpose of the Act is to protect an employee from any risk or hazard which is peculiar to the nature of the work he is employed to do. *Hosteny v. Illinois Workers' Compensation Comm'n*, 397 Ill. App. 3d 665, 674 (2009). To recover compensation under the Act, an employee must prove by a preponderance of the evidence all elements of his claim, including a causal connection between the injury and his employment. *Boyd Electric v. Dee*, 356 Ill. App. 3d 851, 860 (2005). An occupational activity need not be the sole or principal causative factor, as long as it was a causative factor in the resulting condition of ill-being. *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 205 (2003).

¶ 65 Whether a causal relationship exists between a claimant's employment and his condition of ill-being is a question of fact. *Certi-Serve, Inc. v. Industrial Comm'n*, 101 Ill. 2d 236, 245 (1984). It is the function of the Commission to decide questions of fact, judge the credibility of witnesses, and resolve conflicts in the evidence. *Hosteny*, 397 Ill. App. 3d at 674. The resolution

of conflicts in medical testimony is also within the province of the Commission. *Sisbro*, 207 Ill. 2d at 206. A reviewing court may not substitute its judgment for that of the Commission on these issues merely because other inferences from the evidence may be drawn. *Berry v. Industrial Comm'n*, 99 Ill. 2d 401, 407 (1984). This is especially true with respect to medical issues, wherein we grant substantial deference to the Commission because of the expertise it possesses in the medical arena. *Long v. Industrial Comm'n*, 76 Ill. 2d 561, 566 (1979). We will not reverse the Commission's decision unless its findings are against the manifest weight of the evidence. *Durand v. Industrial Comm'n*, 224 Ill. 2d 53, 64 (2006). "Fact determinations are against the manifest weight of the evidence only when an opposite conclusion is clearly apparent—that is, when no rational trier of fact could have agreed with the agency." *Id.* When the evidence is sufficient to support the Commission's causation finding, we must affirm. *Pietrzak v. Industrial Comm'n*, 329 Ill. App. 3d 828, 832-33 (2002).

¶ 66 On appeal, Employer argues the Commission's initial decision was proper, whereas claimant contends the Commission's initial decision was against the manifest weight of the evidence. Claimant points to the Commission's errant factual findings, specifically that he had immediately complained of right back and right leg pain at the emergency room and that no treating physician had ruled out an injury to his right sacroiliac joint. Claimant also notes Dr. Seibly clearly stated his sacroiliac joint injury, while being a new condition, was causally related to the accident. He further points to Dr. Soriano's misrepresentation of his delayed and alternating leg pain complaints. He cites *Kawa v. Illinois Workers' Compensation Comm'n*, 2013 IL App (1st) 120469WC, in support.

¶ 67 In *Kawa*, the claimant underwent treatment for injuries to his right shoulder, right knee, and lower back resulting from a job-related vehicle accident. *Id.* ¶ 1. After his treatment, the



claimant experienced continued pain in his shoulder, back, and knee. *Id.* The claimant was referred to an additional multidisciplinary pain management program that included psychological treatment for his continued complaints. *Id.* The claimant declined to participate, and his failure to participate meant he had reached maximum medical improvement, warranting no further entitlement to benefits. *Id.* The appellate court found the evidence established the claimant's condition of ill-being was causally related under the chain-of-events theory. *Id.* ¶ 87. The claimant's failure to participate in psychological treatment for his pain management was not relevant to the causal connection of the injuries he sustained. *Id.*

¶ 68 We find *Kawa* distinguishable from the facts of the case *sub judice*. Certainly, there was no evidence claimant had experienced any issues with his sacroiliac joint prior to his work accident. However, the record and claimant's own testimony refute finding the Commission's initial decision was against the manifest weight of the evidence. As a reviewing court, we may set aside the Commission's decision where the clearly evident, plain, and indisputable weight of the evidence compels the opposite conclusion. *Montgomery Elevator Co. v. Industrial Comm'n*, 244 Ill. App. 3d 563, 567 (1993) ("While we are not easily moved to set aside a Commission's decision on a factual question, we will not hesitate to do so where the clearly evident, plain, and indisputable weight of the evidence compels an apparent, opposite conclusion."). We do not find the weight of the evidence in this case compels the opposite conclusion.

¶ 69 The facts from the record show claimant did initially complain of lower back and right leg pain. However, when he first visited Dr. Clunie, his primary concern was abdominal pain related to what he believed was a new hernia. After he visited Dr. Finizio and learned he did not have a true hernia, he returned to Dr. Clunie's practice and focused his complaints on lower back and right leg pain with nurse Murphy. This supported the Commission's finding that, contrary to

his arguments on appeal, claimant did not consistently complain of right back and right leg pain from the beginning.

¶ 70 Claimant received various treatments, including medication for pain, physical therapy, and an epidural injection, all of which he claimed were of no help. Yet, when claimant testified, he said the physical therapy did offer some relief. This contradiction speaks to his credibility. He routinely denied evidence from the medical records during his testimony that plainly contradicted his version of events. He denied complaining of bilateral leg pain, but the medical notes from Dr. Finizio and physical therapy indicated he had indeed complained of bilateral leg pain. He claimed his pain was isolated to his lower back and right leg, but the records show his complaints changed to pain in his left hip at times.

¶ 71 Claimant notes the Commission's findings were in error because it had found a right sacroiliac joint condition was ruled out previously by his treating physician. The record does not show any right sacroiliac joint injury had been ruled out. Dr. Seibly testified this was a new condition and causally related to the December 2, 2015, accident. However, the Commission found Dr. Soriano to be more credible and persuasive than Dr. Seibly. As we noted earlier, credibility of medical testimony is within the province of the Commission, and we grant substantial deference to the Commission's findings.

¶ 72 Claimant argues Dr. Soriano misrepresented his right back and right leg pain as delayed and alternating. However, Dr. Soriano, on cross-examination, conceded he was mistaken about his initial findings related to when claimant presented with right back and right leg pain and that the pain was not in fact represented as alternating in the medical records. Nonetheless, Dr. Soriano corrected his misstatement and further provided evidence to contradict claimant's contentions. Indeed, even Dr. Seibly misstated the record regarding claimant's pain complaints.

Dr. Seibly offered that claimant had never complained of bilateral leg pain, which was directly contradicted by the record. This was likely because Dr. Seibly confirmed he had not thoroughly reviewed claimant's prior medical records prior to examining him. Dr. Seibly even contradicted claimant's arguments on appeal when he stated claimant's back and leg pain did not manifest until a few days after the accident.

¶ 73 Dr. Soriano also noted objective assessments, such as the standing and supine straight leg test and Waddell's testing, which all indicated claimant was exaggerating his symptoms. The theory of exaggeration was also supported by claimant's report of experiencing back and leg pain at a 10 out of 10 immediately after the accident, yet mere days later, he reported "moderate" pain from a purported hernia, not from his back or leg. We also cannot ignore the Commission's findings regarding claimant's credibility. Claimant denied receiving treatment at Carle and Harrison County hospitals after the accident, but the record showed he was given medication and underwent diagnostic imaging.

¶ 74 Our decision on review is not whether we, as a reviewing court, might reach the same or a different conclusion than the Commission. Rather, we must determine whether the record contains sufficient evidence to support the Commission's initial determination. *R & D Thiel v. Illinois Workers' Compensation Comm'n*, 398 Ill. App. 3d 858, 866 (2010). We are not permitted to "disregard or reject permissible inferences drawn by the Commission merely because other inferences might be drawn." *Sisbro*, 207 Ill. 2d at 206. Nor can we point to an isolated misstatement of the record by the Commission and find the remaining weight of the evidence no longer supports its initial decision. See *General Motors Corp. v. Industrial Comm'n*, 179 Ill. App. 3d 683, 695 (1989) ("A reviewing court can affirm the [Commission's] decision if there is any legal basis in the record to support its decision regardless of the [Commission's] findings or

reasoning.”).

¶ 75 Ultimately, the Commission is charged with evaluating the credibility of the witnesses and discerning the credibility of the medical testimony. Here, the Commission found claimant’s testimony to be incredible and Dr. Soriano to be more credible and persuasive than Dr. Seibly. Our review grants substantial deference to these findings, and we cannot reverse the Commission’s initial decision unless it is against the manifest weight of the evidence. For a decision to be against the manifest weight of the evidence, the opposite conclusion must, from the record, be clearly apparent. We do not find the opposite conclusion clearly apparent. Because the evidence was sufficient to support the Commission’s finding that claimant’s condition of ill-being was not causally related to his December 2, 2015, accident, we must confirm the Commission’s initial decision from October 10, 2017. Accordingly, we reverse the circuit court of Livingston County’s August 30, 2018, order that reversed the Commission’s initial decision. Because we are confirming the Commission’s initial decision, we also vacate the Commission’s second decision and reverse the circuit court of Vermilion County’s order affirming the Commission’s second decision.

¶ 76 III. CONCLUSION

¶ 77 For the reasons stated, we reverse the circuit court’s judgment confirming the Commission’s second decision. We reverse the court’s August 30, 2018, order and confirm the Commission’s initial, October 10, 2017, decision.

¶ 78 Reversed; Commission’s initial decision confirmed.