

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

2024 IL App (5th) 231106WC-U

Workers' Compensation  
Commission Division  
Order Filed: November 15, 2024

No. 5-23-1106WC

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

AUTOZONE, INC.	)	Appeal from the
	)	Circuit Court of
Appellant,	)	Saline County.
	)	
v.	)	No. 23-MR-5
	)	
THE ILLINOIS WORKERS' COMPENSATION	)	
COMMISSION <i>et al.</i>	)	Honorable
	)	Todd D. Lambert,
(Loxie U. Sanders III, Appellee).	)	Judge, presiding.

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

**ORDER**

¶ 1 *Held:* We affirm the order of the circuit court confirming the decision of the Commission, where the Commission's finding on the issue of causation was not against the manifest weight of the evidence.

¶ 2 Employer, Autozone, Inc., appeals from an order of the circuit court of Saline County, which confirmed the decision of the Illinois Workers' Compensation Commission (Commission) awarding claimant, Loxie U. Sanders III, benefits under the Illinois Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2020)). For the following reasons, we affirm the circuit court's order confirming the Commission's decision.

¶ 3

### I. Background

¶ 4 On September 29, 2020, claimant filed an application for adjustment of claim pursuant to the Act, seeking benefits for lumbar and cervical injuries he sustained while working for employer on June 17, 2020. The matter proceeded to an arbitration hearing held pursuant to section 19(b) of the Act (*id.* § 19(b)) on October 27, 2021. The following factual recitation was taken from the evidence and testimony adduced at the hearing.

¶ 5 Claimant testified that he worked for employer as a delivery truck driver. He delivered parts to stores located in Illinois and Kentucky. The job involved driving delivery routes and loading and unloading parts from his truck. The parts varied in size and weight, ranging from a light bulb to motors that would require four men to carry if no lift was available.

¶ 6 Claimant testified that he sustained neck and back injuries while working for employer on June 17, 2020, while driving in Kentucky to make a delivery. Claimant testified that, while attempting to make a left turn through an intersection, a vehicle drove through the stoplight and struck the driver's side of his truck. Claimant testified he was knocked to the right and heard a "crackle" as his body jerked. The truck needed to be towed from the scene. Claimant testified that he received a ride in the tow truck because bystanders began hurling "discriminatory comments" toward him. Claimant called a representative of employer who picked him up and drove him back to Illinois. On June 19, 2020, claimant presented to the Ferrell Hospital emergency room where he reported left shoulder pain due to a motor vehicle accident two days prior. He acknowledged a history of injury to his left arm in the past, but no medical history of cervical or lumbar conditions. X-rays of the left shoulder showed no evidence of fracture. Claimant was provided a Toradol injection, prescribed tramadol, and ordered to follow up with his primary physician.

¶ 7 On June 24, 2020, claimant reported to his primary care physician, Dr. Nathan Oldham, after his initial neck and back pain progressed to shooting pain in his left groin and leg. Medical records entered into evidence record only one visit that predates claimant's work accident. Claimant presented to Dr. Oldham on June 29, 2015, after falling off a ladder and reporting left shoulder pain. Dr. Oldham noted claimant's prior history of traumatic brain injury and movement disorder resulting from a 2011 train accident. Dr. Oldham noted claimant walked with a cane due to the movement disorder. The June 29, 2015, X-rays of the left shoulder were negative for fracture. Dr. Oldham prescribed tramadol and Norco and recommended an MRI if symptoms persisted.

¶ 8 At the initial June 24, 2020, visit following the work accident, claimant described to Dr. Oldham significant pain in the left side of his neck, trapezius, and shoulder with intermittent numbness and tingling in his left hand. Claimant described the work accident to Dr. Oldham. Claimant reported muscle tension and tenderness in the low back. Dr. Oldham noted claimant's history of the 2011 train accident and noted "chronic back issues," but claimant had not taken pain medication for at least five years. No past medical history of cervical or lumbar issues was contained in Dr. Oldham's records. Dr. Oldham performed a physical exam on claimant that revealed muscle spasm and tenderness in claimant's left cervical paraspinous, trapezius, and deltoid. Claimant's left shoulder had reduced range of motion due to pain, and his left grip was weaker compared to the right. Dr. Oldham prescribed hydrocodone with naproxen, ordered X-rays of claimant's cervical and lumbar spine, and placed him off work.

¶ 9 On July 28, 2020, Dr. Oldham noted the X-rays of claimant's cervical, thoracic, and lumbar spine were normal but showed mild to moderate osteoarthritis and chronic degenerative changes

in portions of claimant's spine. Dr. Oldham's impressions were cervical and lumbar neurologic structural damage after a physical examination revealed worsening pain, increased weakness, and reduced range of motion. On August 25, 2020, claimant reported continued neck and low back pain despite therapy and received Veterans Affairs treatment for post-traumatic stress disorder (PTSD) following the work accident. Dr. Oldham noted claimant's legs were randomly giving out and causing claimant to fall.

¶ 10 On September 4, 2020, MRIs were performed on claimant's cervical and lumbar spine. The cervical MRI revealed disc osteophyte complexes at C3-4, C4-5, C5-6, and worse at C6-7. The lumbar MRI revealed L4-5 spondylolisthesis with severe degenerative changes at the facet joints and L5-S1 moderate degenerative changes at the facet joints with posterior disc osteophyte complete. Dr. Oldham referred claimant to Dr. Matthew Gornet for further treatment.

¶ 11 On September 22, 2020, Dr. Gornet examined claimant for complaints of neck pain, low back pain, and shooting pain from the right groin down to the right knee. Dr. Gornet performed a physical examination and reviewed MRIs. Dr. Gornet diagnosed disc injury at L4-5, L5-S1 and aggravation of preexisting stenosis and degenerative spondylolisthesis. He opined the accident aggravated the underlying degenerative condition in the cervical spine and potentially caused disc injuries from C3 to C7. Claimant had fairly classic whiplash pain common in motor vehicle accidents. Dr. Gornet took claimant off work and recommended injections.

¶ 12 Dr. Helen Blake performed epidural steroid injections (ESI) on claimant on three separate occasions and medial branch blocks on one occasion. Claimant reported that his back felt better after receiving a local anesthetic, but when it wore off his pain returned to its baseline. Dr. Blake performed ablations on November 24, 2020, and December 8, 2020. Dr. Gornet noted some

improvement from the injections but kept claimant off work and prescribed medication.

¶ 13 On December 14, 2020, at the request of employer, Dr. Daniel Kitchens performed an independent medical examination on claimant pursuant to section 12 of the Act. 820 ILCS 305/12 (West 2020). Dr. Kitchens testified by way of evidence deposition on June 2, 2021, and the deposition was entered into evidence at the arbitration hearing. Dr. Kitchens testified that he is a board-certified neurosurgeon. Dr. Kitchens performed a physical exam on claimant and reviewed MRIs. Dr. Kitchens also reviewed claimant's job duties, which included: frequent bending, twisting, rotating trunk, arms, and legs; standing 100% of the time; walking 99% of the time; climbing 10% of the time. Claimant had to frequently move and stock parts weighing up to 35 pounds, carry parts 10 to 50 feet; occasionally move and stock parts weighing up to 50 pounds, pushing and pulling occasionally; frequently move merchandise weighing 10 to 25 pounds from floor to counter; and occasionally stock overhead parts weighing 5 to 15 pounds.

¶ 14 Dr. Kitchens testified that his exam and review of the MRIs revealed degenerative changes, but no disc herniation. He opined that there was no objective correlation between the MRIs and claimant's pain complaints. He diagnosed cervical and lumbar strains that did not require spine surgery. Dr. Kitchens concluded that claimant could return to full duty work with no restrictions. On cross-examination, Dr. Kitchens agreed that claimant tried all reasonable conservative measures for his cervical and lumbar spine. Dr. Kitchens acknowledged that the findings on the cervical MRI from September 4, 2020, could cause neck pain and that trauma like the motor vehicle accident suffered by claimant could not cause a degenerative neck condition to become symptomatic because that is the natural course of the disease. Dr. Kitchens conceded that degenerative changes without nerve root compression can produce neck pain. He opined the disc

herniation at L5-S1 was asymptomatic. He agreed that the L4-5 spondylolisthesis can produce back pain without radiculopathy.

¶ 15 On June 1, 2021, claimant underwent updated cervical and lumbar MRIs. The radiologist interpreted an L5-S1 central protrusion with right extruded disc fragment and L4-5 spondylolisthesis with protrusion. The cervical MRI revealed C3-4, C4-5, C5-6, C6-7 disc protrusions with stenosis. Based on the MRI results, Dr. Gornet recommended C3-7 disc replacement surgery and likely an anterior/posterior L4-5, L5-S1 fusion. He continued claimant off work. Dr. Kitchens reviewed the updated MRIs and said his opinions remained unchanged.

¶ 16 On May 17, 2021, Dr. Gornet testified by way of evidence deposition and the deposition was entered into evidence at the arbitration hearing. Dr. Gornet, a board-certified orthopedic surgeon devoted to spine surgery, testified that he “disagree[d] with multiple assessments” that Dr. Kitchens made. Dr. Gornet opined that claimant’s “symptoms are classic of a disc injury and whiplash injury.” He concluded from his examination of claimant and the MRIs that claimant suffered “structural injury to the disc and disc mechanism” which is “inconsistent” with Dr. Kitchens’ assessment of “simple muscle strain.” Dr. Gornet testified that claimant suffered a C6-7 disc herniation with a smaller protrusions at C3-4, C4-5, and C5-6, and L4-5 spondylolisthesis with an annular tear, as well as a central herniation and annular tear at L5-S1. Dr. Gornet concluded that these injuries resulted from claimant’s work motor vehicle accident and that claimant’s symptoms were “not easily managed without surgery.”

¶ 17 At the arbitration hearing, claimant testified that he previously worked as a train conductor for Amtrak Corporation, but in 2011 a mining truck struck the train he was on. Claimant survived and rescued passengers and crew members. Claimant reported no neck or back injuries from the

train accident, but that he did suffer PTSD and conversion disorder that caused imbalance and the need to use a cane. Claimant testified he suffered a shoulder injury in 2015 after falling off a ladder.

¶ 18 Claimant explained that Dr. Oldham's medical record contained reports of "chronic low back pain" because Dr. Oldham also treated claimant's father who had the same name and did have a history of back pain. Claimant denied ever receiving treatment for back problems. Claimant testified that he wished to undergo the four-level cervical disc replacement and three-level lumbar disc replacement surgery recommended by Dr. Gornet.

¶ 19 On cross-examination, claimant testified he also lives in Mexico with his wife and daughter and attempted holistic treatment while there. Claimant acknowledged that he sat for extended periods of time while on a bus to Mexico. He testified that he could not turn his head and therefore a driver had to bring him to the arbitration hearing.

¶ 20 On January 19, 2022, the arbitrator issued a decision. The arbitrator found that claimant sustained an injury arising out of and in the course of his employment and that his current condition of ill-being was causally related to the work accident. The arbitrator awarded claimant 70 1/7 weeks of temporary total disability (TTD) benefits amounting to \$19,897.42. Employer was given a credit for \$10,805.07 of TTD already paid. Employer was ordered to pay for the treatments and surgery recommended by Dr. Gornet. The arbitrator found claimant's testimony credible. The arbitrator found "the opinions of Dr. Gornet more persuasive than the opinions of Dr. Kitchens." Employer filed a petition for review of the arbitrator's decision with the Commission.

¶ 21 On March 27, 2023, the Commission issued a unanimous decision affirming and adopting the arbitrator's decision with changes. The Commission changed the arbitrator's decision by modifying the TTD award to reflect that claimant was married with one dependent child, and that

the appropriate minimum rate was \$320.67 resulting in a modified TTD award of \$22,492.71. The Commission remanded the case to the arbitrator pursuant to *Thomas v. Industrial Comm'n*, 78 Ill. 2d 327 (1980), for further proceedings to determine any additional amount of temporary benefits or compensation for permanent disability, if any. Employer sought judicial review of the Commission's decision before the circuit court of Saline County.

¶ 22 On October 17, 2023, the circuit court entered an order confirming the Commission's decision. Employer filed a timely notice of appeal on November 8, 2023.

¶ 23 II. Analysis

¶ 24 On appeal, employer argues that the Commission's finding that claimant's current condition and need for surgery were causally connected to his work accident was against the manifest weight of the evidence. We disagree.

¶ 25 To obtain compensation under the Act, a claimant must show, by a preponderance of the evidence, that he sustained an accidental injury arising out of and in the course of his employment. *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 203 (2003). The "arising out of" component addresses the causal connection between a work-related injury and a claimant's condition of ill-being. *Id.* A claimant is only required to prove that some act or phase of his employment was a causative factor in his resulting injury. *Vogel v. Industrial Comm'n*, 354 Ill. App. 3d 780, 786 (2005).

¶ 26 The issue of causal connection presents a question of fact for the Commission, and a reviewing court will not overturn the Commission's decision unless it is against the manifest weight of the evidence. *Id.* For the Commission's decision to be against the manifest weight of the evidence, the record must disclose that an opposite conclusion was clearly apparent. *Gallianetti v.*



*Industrial Comm'n*, 315 Ill. App. 3d 721, 729-30 (2000). A reviewing court will affirm the Commission's decision if there is sufficient evidence to support the Commission's finding. *Pietrzak v. Industrial Comm'n*, 329 Ill. App. 3d 828, 833 (2002). 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. *General Motors Corp. v. Industrial Comm'n*, 179 Ill. App. 3d 683, 695 (1989).

¶ 27 It is the function of the Commission to resolve conflicts in the evidence, including medical testimony; assess the credibility of the witnesses; assign weight to the evidence; and draw reasonable inferences from the evidence. *ABF Freight System v. Illinois Workers' Compensation Comm'n*, 2015 IL App (1st) 141306WC, ¶ 19. It is not our role to reweigh evidence or substitute our judgment for that of the Commission, especially regarding medical testimony, where we owe great deference to the Commission because of its long-recognized expertise with such evidence and testimony. *Id.*

¶ 28 Here, employer asks this court to reverse the Commission's decision and find that it was against the manifest weight of the evidence. Specifically, employer contends that claimant did not have credible testimony and instead engaged in "patent speculation." Employer argues that claimant's medical records contradict where the injuries occurred on his body and when the pain and limited range of motion manifested. Employer disbelieves claimant's alleged inability to move his neck because "there is no exam finding suggesting he cannot move his neck" and that "only later [after the accident] did the neck become limited." Employer further argues that claimant's testimony regarding previous back pain was not credible. Employer contends that claimant's testimony was absurd, where he testified that Dr. Oldham's medical record contained reports of

“chronic low back pain” because Dr. Oldham also treated claimant’s father who had the same name and did have a history of back pain. Employer argues that the Commission’s acceptance of this “absurd” explanation is “without justification.” Finally, employer concludes that Dr. Kitchens’ testimony is more persuasive than Dr. Gornet’s conclusion, where Dr. Kitchens opined that claimant suffered only mere strains and could return to full duty work. We cannot agree.

¶ 29 Employer’s arguments ask this court to find claimant’s testimony incredible and Dr. Kitchens’ medical testimony more persuasive than Dr. Gornet’s testimony. However, the Commission expressly found claimant’s testimony credible and “the opinions of Dr. Gornet more persuasive than the opinions of Dr. Kitchens.” A review of the record reveals sufficient evidence and testimony to support the Commission’s decision. As such, we will not substitute our judgment for that of the Commission, especially on matters of credibility and weight of the evidence (*ABF Freight System*, 2015 IL App (1st) 141306WC, ¶ 19), where the opposite conclusion is not clearly apparent (*Gallianetti*, 315 Ill. App. 3d at 729-30). Therefore, we cannot find that the Commission’s decision was against the manifest weight of the evidence.

¶ 30 III. Conclusion

¶ 31 For the reasons stated, we affirm the circuit court’s order confirming the Commission’s decision and remand the matter to the Commission for further proceedings.

¶ 32 Affirmed and remanded to the Commission.