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2022 IL App (3d) 210213WC-U

Order filed January 18, 2022

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

PATRICK JORDAN,)	Appeal from the Circuit Court
)	of the 10th Judicial Circuit
Appellant,)	Peoria County, Illinois
)	
v.)	Appeal No. 3-21-0213WC
)	Circuit No. 20-MR-796
THE ILLINOIS WORKERS')	
COMPENSATION COMMISSION <i>et al.</i>)	Honorable
)	David A. Brown,
(City of Peoria, Appellee.))	Judge, Presiding.

PRESIDING JUSTICE HOLDRIDGE delivered the judgment of the court.
Justices Hoffman, Hudson, Cavanagh, and Barberis concurred in the judgment.

ORDER

¶ 1 *Held:* The Commission's finding that the claimant failed to prove a causal connection between his condition of ill-being and the work accident was not against the manifest weight of the evidence.

¶ 2 The claimant, Patrick Jordan, appeals a decision of the Illinois Workers' Compensation Commission (Commission) denying his claim for benefits under the Illinois Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2016)). The Commission reversed the arbitrator's decision and found that the claimant failed to prove a causal connection between his

left shoulder condition of ill-being and the October 28, 2016, work accident. The claimant sought review of the Commission's decision before the circuit court of Peoria County. The court confirmed the Commission's decision. The claimant appeals.

¶ 3

I. BACKGROUND

¶ 4 At the outset, we note that we provide a limited background in this case as the issue is narrow and relates only to the claimant's left shoulder.

¶ 5 The claimant was employed by the City of Peoria (City) as a police officer. On October 28, 2016, the claimant approached a suspect and went to stop him. The suspect pulled away from the claimant, causing the claimant to trip on an uneven sidewalk. He fell forward, extending both arms forward to brace his fall, and landed on his hands. The claimant noticed pain in his left wrist going up his arm and pain in his right wrist and right hand. He filed a police report with the City and did not complain of any pain in his left shoulder. The claimant went to the hospital, was prescribed pain medication, and was referred to OSF Orthopedics. The claimant presented to Dr. Jason Anane-Sefah and records indicate the claimant did not make any shoulder complaints.

¶ 6 In November 2016, Dr. Anane-Sefah performed surgery to address a tear in the claimant's left wrist. Thereafter, the claimant had his left arm in a sling, continued to take pain medication, and underwent physical therapy. The claimant testified that he noticed pain in his left shoulder during physical therapy and it never went away. He noticed more pain in his left shoulder with increased activity in physical therapy. While undergoing physical therapy, the claimant continued to see Dr. Anane-Sefah and also saw Dr. Edward Moody at OSF Occupational Health. The claimant testified that he told Dr. Anane-Sefah about his left shoulder problems, but the physician advised him that he did not treat shoulders and would not assess his shoulder.

¶ 7 In April 2017, the claimant presented to Dr. Peter Hoepfner, an orthopedic surgeon

specializing in hand and upper extremity surgery, for an independent medical examination (IME). The report noted that the claimant denied shoulder complaints and had a normal shoulder exam.

¶ 8 In May 2017, the claimant sustained an injury to his right shoulder during work hardening. He stated that he was lifting a box with both hands when he heard a pop in his right shoulder. He presented to Dr. David Braun at OSF Occupational Health seeking medical treatment for his right shoulder. The claimant made no complaints of his left shoulder.

¶ 9 In June 2017, the claimant was referred to Dr. Jeffrey Garst for a shoulder assessment and an MRI for his right shoulder. Dr. Garst noted that the claimant complained of left shoulder problems related to the October 2016 accident. This is the first medical record providing that the claimant complained of left shoulder problems related to the October 2016 accident. A few days later, the claimant presented to Dr. Moody and also complained of left shoulder pain.

¶ 10 In July 2017, the claimant presented to Dr. Hoepfner for another IME. He reported right shoulder pain that he experienced during work conditioning. The claimant also complained of left shoulder pain, which he rated 3/10 at rest and 5/10 at its worst. He did not indicate whether the left shoulder pain was caused by either the May 2017 or October 2016 accidents.

¶ 11 In September 2017, the claimant underwent surgery for a rotator cuff tear in his right shoulder. Dr. Garst recommended an MRI of the claimant's left shoulder due to the claimant's complaints of pain. Dr. Garst then diagnosed the claimant with an acromioclavicular joint separation at the left shoulder, long head bicep tenosynovitis, and a partial rotator cuff tear at the supraspinatus insertion. Dr. Garst recommended left shoulder surgery. The claimant testified that he believed he reported his left shoulder pain sooner, but could not recall when he reported it and why it would be omitted from his medical records.

¶ 12 Dr. Garst testified by evidence deposition. In sum, he opined that it was more likely than

not that the claimant's left shoulder was injured in the October 2016 accident. He stated that the claimant's mechanism of injury was of the type that could cause a shoulder problem. Dr. Garst stated that a causal relationship is supported if the claimant started hurting and complained of pain after the injury. He also noted that when patients have various injuries, they "shy away from their lesser injuries so they can get treatment for the worst things." On cross-examination, he testified that if the claimant saw a physician two months prior to seeing him in June 2017, and reported no pain in either shoulder, it would contradict his opinion regarding a causal relationship.

¶ 13 Dr. Hoepfner also testified by evidence deposition. He recalled the detailed history provided by the claimant regarding the October 2016 incident. In April 2017, during the initial IME, Dr. Hoepfner recorded that the claimant denied having bilateral shoulder complaints. During the physical examination, Dr. Hoepfner detected a benign and normal shoulder exam on both the right and left sides. Among other things, his notes stated that the claimant had a normal range of motion without pain, no scapular winging, no muscle wasting about the shoulder girdle, rotator cuff strength 5/5 bilaterally, and a negative drop arm test. Dr. Hoepfner saw the claimant for another IME in July 2017, and the claimant complained of right and left shoulder pain.

¶ 14 Although Dr. Hoepfner stated that the mechanism of injury from October 2016 is the type that could cause injury to the shoulder, the medical records did not show any shoulder pain at that time. He believed the medical records were clear, and based on the history he obtained from the claimant in April 2017, neither of the claimant's shoulder conditions were related to the October 2016 accident. Dr. Hoepfner also noted that if the claimant was taking pain medication after the October 2016 accident, his pain in his shoulders could have been slightly affected, but the claimant had no problem conveying specific pain in his wrists and elbows while taking the pain medication.

¶ 15 The arbitrator found that the claimant's left shoulder condition of ill-being was causally

related to the October 2016 accident. The Commission reversed the arbitrator, finding that the claimant failed to prove a causal connection between his left shoulder condition of ill-being and the October 2016 work accident. The Commission observed that the claimant had 14 visits to see Drs. Anane-Sefeh and Moody between the date of the accident (October 2016) and his evaluation with Dr. Garst where he complained of left shoulder problems (June 2017), and none of the notes from those 14 appointments contained left shoulder complaints. The Commission rejected the claimant's suggestion that the physicians failed to document his complaints, as one record from Dr. Anane-Sefah demonstrated that the claimant had questions regarding his right upper extremity but the physician noted that he was not authorized to address it. A similar notation regarding left shoulder pain would have been made. The Commission also made note of the April 2017 IME where Dr. Hoepfner conducted a thorough examination of the claimant's shoulders and noted normal findings and no complaints. The Commission concluded that Dr. Garst's causation opinion was entitled to little weight given his acknowledgement that his opinion would be contradicted if the claimant reported no shoulder pain two months prior.

¶ 16 The claimant sought review of the Commission's decision before the circuit court of Peoria County. The court confirmed the Commission's determination. The claimant appeals.

¶ 17 **II. ANALYSIS**

¶ 18 On appeal, the claimant argues that the Commission's decision was based off a lack of documentation and pain complaints in the medical records, which was not supported by the record. Specifically, he notes that he was provided limited use of his left wrist, arm, and shoulder and taking pain medication, which prolonged his reports of pain in the left shoulder after the accident. We note that the claimant concedes that he cites no legal authority to directly support his argument, but states that "there is no case law that supports these specific facts."

¶ 19 As the issue presented is a question of fact, the manifest-weight standard applies. *Gano Electric Contracting v. Industrial Comm'n*, 260 Ill. App. 3d 92, 95 (1994). A finding is against the manifest weight of the evidence when the opposite conclusion is clearly apparent. *Shafer v. Illinois Workers' Compensation Comm'n*, 2011 IL App (4th) 100505WC, ¶ 38. It is primarily for the Commission to resolve conflicts in the record, evaluate the credibility of witnesses, and draw inferences from and assign weight to the evidence. *Hosteny v. Illinois Workers' Compensation Comm'n*, 397 Ill. App. 3d 665, 678-79 (2009). As such, whether a reviewing court might reach the same conclusion is irrelevant, and we must determine whether there is sufficient evidence in the record to support the Commission's decision. *Benson v. Industrial Comm'n*, 91 Ill. 2d 445, 450 (1982). It was the claimant's burden to prove all elements of his claim by a preponderance of the evidence before the Commission. *Hosteny*, 397 Ill. App. 3d at 674. On appeal, it is the claimant's burden, as the appellant, to demonstrate error warranting reversal. *TSP-Hope, Inc. v. Home Innovators of Illinois, LLC*, 382 Ill. App. 3d 1171, 1173 (2008).

¶ 20 Here, the claimant is asking this court to reweigh the evidence in his favor. As already explained, the task of weighing the evidence presented is within the exclusive purview of the Commission. *Hosteny*, 397 Ill. App. 3d at 678-79. Moreover, our review of the record demonstrates there was ample evidence to support the Commission's decision that there was no causal connection between the claimant's left shoulder condition of ill-being and the October 2016 work accident. The claimant had over a dozen appointments where he sought treatment for injuries related to the October 2016 incident and the first record of any left shoulder pain did not occur until June 2017 when he first met with Dr. Garst. It is true that Drs. Hoepfner and Garst both agreed that the October 2016 accident could cause the left shoulder issues the claimant experienced. However, Dr. Hoepfner stated that when the claimant first presented for his initial IME in April

2017, he denied shoulder complaints, which would remove the October 2016 accident as a source of his injury. Dr. Garst expressed a similar opinion, stating that if the claimant presented to another provider two months prior to his June 2017 meeting with the claimant and denied shoulder complaints, it would contradict his causation opinion. Based on the facts presented, the record is devoid of a causation opinion to support the contention that the claimant's left shoulder condition of ill-being was a result of the October 2016 accident.

¶ 21 For the reasons explained by the Commission, we also fail to see why complaints pertaining to the claimant's left shoulder would be omitted from his extensive medical records if he made such complaints. As a final matter, although the evidence demonstrated that it was *possible* that the claimant's treatment plan (pain medication and limited use of his left arm) could have prolonged his report of left shoulder pain, any causal connection remains rebutted by the aforementioned facts. For the forgoing reasons, we find sufficient evidence of record to support the Commission's decision in this case.

¶ 22 III. CONCLUSION

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

¶ 24 Affirmed.