

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 (4th) 230973WC-U

Workers' Compensation
Commission Division
Order Filed: November 14, 2024

No. 4-23-0973WC

IN THE
APPELLATE COURT OF ILLINOIS
FOURTH DISTRICT

FILED
November 14, 2024
Carla Bender
4th District Appellate
Court, IL

WORKERS' COMPENSATION COMMISSION DIVISION

FARMLAND FOODS,)	Appeal from the
)	Circuit Court of
Appellant,)	Warren County.
)	
v.)	No. 20-MR-36; 23-MR-7
)	
)	
THE ILLINOIS WORKERS' COMPENSATION)	
COMMISSION, <i>et al.</i>)	Honorable
)	James G. Baber
(Veronica Serna, Appellees).)	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:* Where the Commission's initial decision was not against the manifest weight of the evidence, we reverse the circuit court's judgment reversing the Commission's initial decision and remanding to the Commission for an award of benefits to claimant; vacate the Commission's decision and opinion on remand; vacate the circuit court's subsequent decision confirming the Commission's decision and opinion on remand; and reinstate the Commission's initial decision.

¶ 2 Claimant, Veronica Serna, filed a claim under the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2016)) against employer, Farmland Foods, seeking benefits for a repetitive trauma injury that she allegedly sustained to her left shoulder while working for

employer. Claimant alleged that the manifestation date of her injury was October 21, 2014. Following a hearing, the arbitrator found claimant failed to prove that she sustained an accidental injury arising out of and in the course of her employment on October 21, 2014, and that her current condition of ill-being was causally related to her work activities. The arbitrator denied benefits for those reasons and found the remaining issues claimant raised (medical bills, temporary total disability (TTD), and the nature and the extent of her injuries) moot.

¶ 3 Claimant filed a petition for review of the arbitrator's decision before the Illinois Workers' Compensation Commission (Commission). The Commission, comprised of commissioners Stephen J. Mathis, L. Elizabeth Coppoletti, and Douglas D. McCarthy, unanimously affirmed and adopted the arbitrator's decision.

¶ 4 Claimant sought judicial review of the Commission's decision in the circuit court of Warren County. The circuit court reversed the Commission's decision, finding that claimant proved she sustained a repetitive trauma injury covered by the Act and that her injury was causally related to her employment. The court remanded the matter back to the Commission to award appropriate benefits under the Act.

¶ 5 On remand, the Commission, comprised of commissioners Mathis, Deborah L. Simpson, and Deborah J. Baker, issued a unanimous decision awarding claimant benefits under the Act in accordance with the circuit court's order. The Commission specifically awarded claimant medical expenses, TTD benefits from October 25, 2016, to February 23, 2018, and permanent disability benefits in the amount of 10% loss of the person as a whole.

¶ 6 Employer sought judicial review of the Commission’s decision on remand in the circuit court of Warren County. The court confirmed the Commission’s decision on remand. Employer appeals.

¶ 7 I. Background

¶ 8 The following factual recitation was taken from the evidence adduced at the arbitration hearing. We recite only those facts necessary for our disposition of this appeal.

¶ 9 Claimant testified that she worked for employer at a meat processing plant from May 2002 until employer terminated her employment in October 2016. Claimant primarily worked in the “ham bone department,” where she performed various jobs. Claimant first performed a “bottoms” job. This job required her to trim fat off pieces of meat and move the trimmed meat, which weighed five pounds or less, to a conveyor belt. Claimant testified that she used her right hand to trim the meat and her left hand to move the meat to the conveyor belt, which was above her shoulder level. Claimant performed the bottoms job for several years.

¶ 10 Claimant testified that she later performed a “tops” job. This job required her to trim pieces of ham with her right hand and use her left hand to throw the trimmed ham, which weighed three to eight pounds, above her shoulder level. Claimant also worked on the “feeding line,” which required her to trim larger pieces of ham weighing 20 to 30 pounds. Claimant testified that she used her left hand to flip the larger pieces of ham, which required her to lift the ham at her shoulder level. Claimant also worked “where the fat falls, separat[ing] the fat and the skin[,]” and in “box bones.” When asked if she had to lift her hands at or above shoulder level at either of those jobs, claimant responded:

“On the trimming, I had a table on top of a combo. So it was pretty high. Sometimes

I needed to use like a stool, a stepper and separate the fat and the skin.

On the bones, no. The bones was [sic] just prep the bones from the belt and put them in the box and I guess put it on a pallet. I don't remember."

¶ 11 Claimant testified that she experienced shoulder pain while working on the feeding line in 2014. Specifically, she experienced a "sharp pain" and "popping sound" in her shoulder at that time. She sought treatment with employer's in-house nurse, who recommended physical therapy. Claimant underwent the recommended therapy from October to November 2014, but she continued to experience pain. Claimant testified that she experienced ongoing pain through her termination in October 2016.

¶ 12 Claimant's therapy records confirmed that claimant underwent therapy from October to November 2014. Claimant reported no prior injuries. The therapist's notes from November 21, 2014, indicated that claimant reported improvements in her shoulder with "no pain at all," and that she was released to work full duty on that date. Claimant also advised her therapist that her job was "not heavy" at that time.

¶ 13 Claimant testified that she was suspended by employer on October 21, 2016, after she refused to perform the tops job. Claimant advised employer that the tops job worsened her shoulder pain. Employer's in-house nurse advised claimant that she needed a work restriction from a medical provider.

¶ 14 On October 22, 2016, claimant sought medical treatment at Cottage Clinic of Monmouth, where she was seen by Nurse Practitioner Marilou Johnson. Claimant's medical records demonstrated that claimant, who was 5' 3" and weighed 210 pounds, complained of right wrist pain and left shoulder pain. Claimant advised Johnson that her pain worsened depending on the

job she performed at work. Claimant reported that her left shoulder pain began three years prior. According to Johnson's office notes, claimant stated that "she slipped 3-4 years ago at work and her shoulder hasn't been the same since." Johnson also documented claimant's work suspension and noted that claimant wanted "a letter requesting jobs that where [sic] she is being moved, her body is unable to handle it." Johnson noted as follows:

"Pt angry due to being suspended. Has not been tx for right wrist pain and left shoulder pain. Feels her pain is due to work. Only wants to work certain jobs. Was awarded new job—cannot tell date—but keeps getting pulled back to jobs she does not like and feels makes her hands hurt and her left shoulder hurt. Has intermittently been to medical but no work comp case has been ope[n]ed. Pt wants provider to write restriction for 1 specific job. Crying very emotional."

Johnson diagnosed claimant with left shoulder pain, right wrist pain, and acquired trigger finger. Johnson prescribed claimant an anti-inflammatory medication and provided claimant with a work restriction of no lifting, pushing, or pulling greater than five pounds and no "above shoulder work." Johnson denied claimant's request for "a permanent restriction."

¶ 15 Claimant testified that employer terminated her for insubordination on October 25, 2016. On the same date, claimant returned to Johnson. Johnson's office notes from that date indicated that claimant presented "after being fired from [employer]. Now wants to file a workers' comp. case on the right hand and left shoulder." Johnson also noted that she ordered an "xray Left shoulder and Right wrist and hand" and directed claimant to continue with the anti-inflammatory medication. Johnson additionally noted the following: "No major MSK deficits found on exam. Pt extremely emotional, crying. Hard to separate pts anger and emotions from true." Claimant was

also referred to Dr. Gregory A. Schierer, M.D., at Cottage Medical Group.

¶ 16 Claimant presented for an initial visit with Dr. Schierer on November 11, 2016. Claimant testified that she complained of left shoulder pain and right trigger finger at that time. Claimant testified that her left shoulder pain was her primary concern. Dr. Schierer's medical records indicated that claimant only complained of right finger pain, or trigger finger, at the initial visit. Dr. Schierer did not document any complaints of left shoulder pain at that time.

¶ 17 Claimant next sought treatment with Dr. Schierer on February 17, 2017. Dr. Schierer's medical records indicated that claimant complained of left shoulder pain at that time. Dr. Schierer did not note claimant's prior shoulder injury following a fall at work three to four years earlier. Dr. Schierer recommended an MRI, which claimant underwent on March 1, 2017. The MRI revealed a partial thickness articular and bursal surface tearing at the supraspinatus, as well as a susceptible slap tear of the labrum. Dr. Schierer administered an injection to claimant's left shoulder and later recommended surgery.

¶ 18 Claimant underwent the recommended surgery on November 9, 2017. Specifically, Dr. Schierer performed an acromioplasty of claimant's left shoulder. Dr. Schierer's pre- and post-operative diagnoses were chronic impingement syndrome of the left shoulder. Following surgery, claimant continued to follow up with Dr. Schierer and underwent physical therapy. Claimant was released from Dr. Schierer's care without restrictions on February 23, 2018.

¶ 19 Claimant testified that her shoulder pain improved following surgery. She agreed that her shoulder was in a better condition at the time of the hearing than it was when she worked for employer. Claimant found new employment and had no issues with her shoulder in her current job. She denied having issues with her left shoulder prior to her employment with employer.

¶ 20 On cross-examination, claimant testified that she was claiming a repetitive trauma injury to her left shoulder. She denied having any prior injuries to her left shoulder. When confronted with Johnson's office note regarding a slip and fall at work three to four years prior to the October 22, 2016, visit, claimant admitted that the note was correct and that she suffered an injury to her left shoulder when she slipped and fell at work. Claimant explained that she had "always had shoulder pain" but that she thought "it got worse when [she] fell." Claimant acknowledged that Dr. Schierer did not document left shoulder pain during the initial visit on November 11, 2016, despite claimant's testimony that her left shoulder was her primary concern on that date. Claimant could not recall if she informed Dr. Schierer of her prior shoulder injury resulting from her slip and fall at work.

¶ 21 Claimant agreed that she specifically requested a permanent work restriction from Johnson to avoid performing a specific job for employer during the initial visit on October 22, 2016. Claimant agreed that she filed a workers' compensation claim against employer because of her termination.

¶ 22 Scott Bollin, defendant's former supervisor at employer, testified that he was familiar with all the jobs claimant performed while she worked for employer. Bollin performed the same jobs for employer and witnessed claimant performing her jobs for employer. According to Bollin, claimant's job duties were lightweight, and none required claimant to perform "above shoulder or head lifting" at work. Bollin clarified that claimant never had to lift the ham on the feeding line, she "just [had] to flip it over." Bollin testified that all jobs were performed at the chest or waist level. On cross-examination, Bollin admitted that he was 5' 10" and that claimant was shorter. Bollin further admitted that claimant's shoulder was lower than his own shoulder.

¶ 23 Dr. Schierer's evidence deposition, taken on April 25, 2019, was admitted into evidence at the hearing. Dr. Schierer, a board-certified orthopedic surgeon, had been in practice for over 30 years. Dr. Schierer confirmed that claimant initially presented with complaints of trigger finger of the right hand on November 11, 2016, and later presented with complaints of left shoulder pain on February 17, 2017. Claimant reported that her left shoulder pain had persisted for three years. Claimant advised Dr. Schierer of her belief that her shoulder pain was caused by repetitive lifting at work. Dr. Schierer's examination of claimant's left shoulder revealed tenderness, tendonitis, and muscle weakness. Dr. Schierer ordered an MRI, which revealed partial thickness tearing, tendinosis, impingement of the rotator cuff, and a small labral tear. Dr. Schierer administered a steroid injection to claimant's left shoulder and prescribed her anti-inflammatory medication. Dr. Schierer directed claimant to remain off work.

¶ 24 Dr. Schierer ultimately recommended that claimant undergo left shoulder acromioplasty surgery. Following claimant's unsuccessful attempts to have the surgery covered by workers' compensation, she opted to proceed with surgery using her private insurance. Claimant underwent the recommended surgery on November 9, 2017, and Dr. Schierer released her to work without restrictions on February 12, 2018.

¶ 25 Dr. Schierer opined that claimant's surgery was reasonable and necessary. He explained that her impingement syndrome was consistent with a person who injured their shoulder while performing heavy repetitive lifting and abduction. Dr. Schierer explained that heavy repetitive lifting and abduction causes impingement syndrome because the tendon involved catches on the bone, which causes it to become inflamed or swollen and, thus, causes it to catch on the bone with more frequency. Dr. Schierer described the process as a "vicious cycle" that caused pain. Claimant

advised Dr. Schierer that she performed overhead work. Dr. Schierer frequently saw patients employed by employer in his practice as an orthopedic surgeon, and he believed employer's employees perform "hard work."

¶ 26 Dr. Schierer also prepared a narrative report on January 18, 2019, which was admitted into evidence during his deposition. In the report, Dr. Schierer opined that claimant suffered from impingement syndrome of the left shoulder, requiring surgery, due to her work for employer. Dr. Schierer opined that claimant's injuries were a direct result of her work for employer. Dr. Schierer based his opinions on claimant's description of her job duties, her MRI scan, and his own physical findings. Dr. Schierer noted that the surgery significantly improved claimant's pain, although it did not completely resolve her pain.

¶ 27 On cross-examination, Dr. Schierer testified that heavy repetitive lifting or abduction, which Dr. Schierer described as "overhead" work, can cause impingement syndrome. When asked to explain the terms "overhead" work and "abduction," Dr. Schierer responded, "Well, you really can't work with your hands above shoulder level unless you're in an abducted position or forward-flexed position." He understood that claimant's job required her to cut meat, but he had no additional information regarding her job duties. Dr. Schierer clarified that "overhead work" could cause or aggravate impingement syndrome. Claimant advised Dr. Schierer that her job duties required "overhead work," but he had no documentation supporting her representation. When asked if his opinion would change if claimant did not perform overhead work, Dr. Schierer responded, "If she was working with her hands above shoulder level, then that would be—I would agree with that." Dr. Schierer confirmed that he reviewed no outside medical records and was not aware of any prior injuries that claimant sustained.

¶ 28 Employer presented the evidence deposition of Dr. Lawrence Li, taken on June 24, 2019. Dr. Li testified that he was a board-certified orthopedic surgeon and that his practice focused on shoulders, hands, and knees. Dr. Li performed approximately 250 shoulder procedures each year. Dr. Li reviewed claimant's medical records and conducted an independent medical examination (IME) of claimant on October, 11, 2018. Following the IME, Dr. Li prepared a report setting forth his findings and opinions. The report was admitted into evidence at the deposition.

¶ 29 Dr. Li testified that he obtained a history from claimant during the IME. Claimant provided a consistent history of length of employment with employer. Claimant advised that she processed hams and "put hams on the squares of a moving line." Dr. Li testified to his understanding that "[t]he work was at waist height." Claimant advised Dr. Li that the work was repetitive and caused her to have left shoulder pain. Claimant also advised Dr. Li that she injured her left shoulder after a slip and fall at work in 2013. Claimant stated that her shoulder improved following the 2013 injury but the issue never completely resolved. Dr. Li noted that claimant's medical records confirmed that she sought medical treatment for a fall in 2013, but that the treatment records indicated that claimant injured her right shoulder, elbow, wrist, and knee. Claimant also advised that she continued to experience shoulder pain until her termination in 2016. Claimant further advised that her pain improved and she returned to full-duty work after Dr. Schierer performed surgery.

¶ 30 When asked if claimant described the lifting required by her job duties, Dr. Li responded, "Yes. She state[d] that the line was about waist height." Dr. Li understood that the lifting "would be all below her chest." Dr. Li, like Dr. Schierer, opined that claimant suffered from left shoulder impingement syndrome, for which she had a successful corrective surgery. Dr. Li opined that

claimant required no work restrictions at the time of his examination. Dr. Li opined that claimant's left shoulder condition and need for surgery were not caused by repetitive lifting at work. Dr. Li based his opinion on his review of the medical records and his understanding that claimant's job duties were performed at the waist level. When asked if claimant described "any above-the-chest or any overhead lifting," Dr. Li responded, "She did not." Dr. Li testified that he asked claimant what level she worked at, and she advised him that she worked at the waist level.

¶ 31 On cross-examination, Dr. Li agreed that the surgery Dr. Schierer performed was appropriate, necessary, and helped claimant. Dr. Li confirmed that claimant described performing her job duties at waist level. Dr. Li explained that this was important because "repetitive trauma for the shoulder, it would have to be, you know, shoulder level or above because the force of each act is so low." Dr. Li further explained that repetitively raising the arm above shoulder level can lead to impingement syndrome. When asked if repetitive work at or about shoulder level could cause impingement syndrome, Dr. Li responded, "So if she was to do the same job but the job was to move the hams on a line and the line was at her shoulder level, then I would agree with you, yes." Dr. Li agreed that if claimant was required to repetitively lift 15 to 20 hams weighing 20 pounds over her head every minute, he would find causation between her work and her impingement syndrome. Dr. Li noted that lifting pieces of meat that weighed only four pounds would be less likely to cause impingement syndrome, although it was "still possible." Dr. Li acknowledged that there was nothing in his report indicating that claimant expressly denied working above her shoulder level.

¶ 32 Following the hearing, the arbitrator issued a decision finding that claimant failed to prove she sustained accidental injuries arising out of and in the course of her employment and that she

failed to prove a causal connection between her current condition of ill-being and her work activities. In so finding, the arbitrator determined that claimant lacked credibility, given the inconsistencies in her testimony regarding her left shoulder injury. Relying on the opinions of Dr. Li and the testimony of Bollin, the arbitrator also determined that claimant failed to prove she performed any work at or above her shoulder level. The arbitrator additionally found the medical opinions of Dr. Li more persuasive than those of Dr. Schierer because Dr. Li had a better understanding of claimant's specific job duties. Accordingly, the arbitrator denied claimant benefits under the Act and found the remaining issues claimant raised (medical bills, TTD, and the nature and the extent of her injuries) moot.

¶ 33 Claimant filed a petition for review of the arbitrator's decision before the Commission. The Commission unanimously affirmed and adopted the arbitrator's decision.

¶ 34 Claimant sought judicial review of the Commission's decision in the circuit court of Warren County. The circuit court reversed the Commission's decision, finding claimant proved that she sustained a repetitive trauma injury covered by the Act and that her injury was causally related to her employment with employer. In doing so, the court determined that the arbitrator erred by finding that claimant did not perform lifting above the shoulder level. The court concluded that the difference in height between Bollin and claimant demonstrated that "she would have had to have extended her arms higher than Bollin did to do the same work." Thus, the court remanded the matter back to the Commission to award appropriate benefits under the Act.

¶ 35 On remand, the Commission issued a unanimous decision awarding claimant benefits under the Act in accordance with the circuit court's order. Specifically, the Commission awarded claimant the following: all "medical bills in evidence;" TTD benefits in the amount of \$504 per

week for a period of 69 4/7 weeks from October 25, 2016, to February 23, 2018; and permanent disability benefits in the amount of \$453.60 per week for a period of 50 weeks, representing 10% loss of the person as a whole.

¶ 36 Employer sought judicial review of the Commission’s decision on remand in the circuit court of Warren County. The court confirmed the Commission’s decision on remand.

¶ 37 This appeal followed.

¶ 38 II. Analysis

¶ 39 On appeal, employer argues that the circuit court’s reversal of the Commission’s initial decision was contrary to the law and against the manifest weight of the evidence. Claimant argues that the circuit court’s reversal was correct and supported by the manifest weight of the evidence.

¶ 40 We initially note that both employer and claimant failed to comply with the briefing requirements set forth in Illinois Supreme Court Rule 341 (Ill. S. Ct. R. 341(h), (i) (eff. May 25, 2018)). Rule 341(h) requires an appellant’s brief to include “[a]rgument, which shall contain the contentions of the appellant and the reasons therefor, with citation of the authorities.” Rule 341(i) places a similar requirement on an appellee’s brief. Here, employer, as appellant, included citations to legal authority in the standard of review section of the brief but included no citations to legal authority in the argument portion of the brief, aside from one citation in the conclusion paragraph. Similarly, claimant, as appellee, failed to include any citations to authority in the argument portion of her brief. We note that supreme court rules “are not suggestions;” rather, they are rules which have the force of law, and the presumption is that the rules will be followed as written. *Bright v. Dicke*, 166 Ill. 2d 204, 210 (1995). This court has the discretion to strike a brief for failure to comply with the supreme court rules and dismiss the appeal. *Holzrichter v. Yorath*, 2013 IL App

(1st) 110287, ¶ 77. We elect not to do so in this case, but we admonish the parties to follow the briefing requirements in further submissions to this court. We now turn to the merits.

¶ 41 “Where, as here, the [circuit] court reverses the Commission’s initial decision and the Commission enters a new decision on remand, this court must decide whether the Commission’s initial decision was proper.” *Vogel v. Industrial Comm’n*, 354 Ill. App. 3d 780, 785–86 (2005) (citing *Inter-City Products Corp. v. Industrial Comm’n*, 326 Ill. App. 3d 185, 196 (2001)). Accordingly, we review the Commission’s initial decision.

¶ 42 To obtain compensation under the Act, a claimant bears the burden of proving, by a preponderance of the evidence, that he or she sustained an accidental injury arising out of and in the course of his or her 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. *Sisbro*, 207 Ill. 2d at 203. An injury arises out of one’s employment if the origin of the injury is in some risk connected with or incidental to the employment so that there is a causal connection between the employment and the accidental injury. *McAllister v. Illinois Workers’ Compensation Comm’n*, 2020 IL 124848, ¶ 36.

¶ 43 An injury may be considered “accidental” under the Act if the injury is caused by the performance of claimant’s job duties, even if the injury develops gradually over time as a result of repetitive trauma. *Peoria County Belwood Nursing Home v. Industrial Comm’n*, 115 Ill. 2d 524, 529-30 (1987). While a claimant alleging a repetitive trauma injury need not prove a specific traumatic injury (*Luttrell v. Industrial Comm’n*, 154 Ill. App. 3d 943, 957 (1987)), the claimant must meet the same standard of proof as other workers’ compensation claimants by showing that

the injury is work-related and not the result of the normal degenerative aging process. *Peoria County Belwood Nursing Home*, 115 Ill. 2d at 530.

¶ 44 The issues of accident and causal connection present questions 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. *Urban v. Industrial Comm'n*, 34 Ill. 2d 159, 161 (1966); *Certi-Serve, Inc. v. Industrial Comm'n*, 101 Ill. 2d 236, 244 (1984). For the Commission's decision to be against the manifest weight of the evidence, the record must disclose that the 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).

¶ 45 Here, the Commission, in its initial decision, affirmed and adopted the arbitrator's decision in its entirety. In doing so, the Commission found claimant failed to prove that she sustained accidental injuries arising out of and in the course of her employment and that there was a causal connection between her current condition of ill-being and her work activities. In so finding, the Commission adopted the arbitrator's determinations that claimant lacked credibility, that claimant failed to prove she performed any work at or above her shoulder level, and that Dr. Li's medical opinions were more persuasive than those of Dr. Schierer. We find ample support for these determinations in the record.

¶ 46 The Commission's determination that claimant lacked credibility was supported by the fact that she gave inconsistent testimony regarding her shoulder injury. For example, claimant testified on cross-examination that she was seeking benefits for a repetitive trauma injury to her left shoulder and she denied sustaining any prior injury to her left shoulder. When confronted with Johnson's office notes, however, claimant admitted that she sustained a prior injury to her left shoulder when she fell at work. Johnson's medical notes from claimant's October 22, 2016, visit indicated that claimant's shoulder pain began three years prior. Specifically, claimant reported that "she slipped 3-4 years ago at work and her shoulder hasn't been the same since." We note that another medical record reviewed by Dr. Li indicated that claimant sustained an injury to her right shoulder when she fell at work. Accordingly, it was unclear which shoulder claimant injured in a prior fall at work. Given these inconsistencies, it was reasonable for the Commission to find claimant's testimony regarding her shoulder injury lacked credibility.

¶ 47 Moreover, Johnson's office notes from the initial visit on October 22, 2016, indicated that claimant was crying, very emotional, and "angry due to being suspended." Johnson noted that claimant "only want[ed] to work certain jobs" and "want[ed] provider to write restriction for 1 specific job." Although Johnson provided claimant with a temporary restriction, Johnson denied claimant's request for a permanent restriction on that date. When claimant returned to Johnson following her termination on October 25, 2016, she advised Johnson that she wanted to file a workers' compensation case. Johnson noted that claimant was "extremely emotional" and "crying," making it "[h]ard to separate pts anger and emotions from true." These medical records could be viewed as indicating that claimant only sought medical treatment for her left shoulder when she became upset with her employer and that her provider had difficulty determining if

claimant's pain complaints were "true." Claimant's medical records also indicated that claimant wanted to file a workers' compensation claim against employer due to the termination of her employment. While not specifically referenced by the Commission, it is our view that these medical records supported the Commission's determination that claimant lacked credibility.

¶ 48 In addition, claimant testified that her primary concern during her initial visit with Dr. Schierer on November 11, 2016, was her left shoulder. However, Dr. Schierer's medical records and deposition testimony demonstrated that claimant complained of right finger pain, or trigger finger, on November 11, 2016, and that she did not complain of left shoulder pain at that time. Dr. Schierer's deposition testimony and medical records confirmed that claimant first complained of left shoulder pain when she presented for a visit on February 17, 2017—nearly three months after she initially sought medical treatment with Johnson and the termination of her employment. These inconsistencies in claimant's testimony supported the Commission's determination that claimant's testimony regarding her left shoulder injury lacked credibility. It is the Commission's responsibility to assess the credibility of witnesses, and we cannot say that the Commission's determination here is contrary to the manifest weight of the evidence. See *ABF Freight System v. Illinois Workers' Compensation Comm'n*, 2015 IL App (1st) 141306WC, ¶¶ 19-20.

¶ 49 The Commission's determination that claimant failed to prove she performed any work at or above her shoulder level was also supported by the evidence. While claimant testified that she performed work at or above shoulder level, the Commission did not find claimant credible and, thus, the Commission likely placed little to no weight on claimant's testimony in this regard. While Dr. Schierer testified in his evidence deposition that claimant performed "overhead work," he noted that this was based entirely on the history claimant provided him. We also note that claimant

never specifically testified that she performed any overhead work. She, instead, testified that she performed work at or above shoulder level.

¶ 50 The Commission relied on Dr. Li's deposition testimony and report, which indicated that claimant reported performing work at the waist level. The Commission also relied on Bollin's testimony that he observed claimant performing her job duties and that none of her job duties required her to perform lifting at or above her shoulder level. We acknowledge that Bollin testified that he performed the same job duties and that none of the job duties required lifting at or above his shoulder level. The circuit court found it significant that Bollin was 5' 10" and claimant was 5' 2". The court reasoned that claimant's short stature would have required her to perform higher lifting than Bollin because he was taller. In our view, however, there was simply no evidence, aside from claimant's testimony, that she performed lifting at or above the shoulder level. We note that claimant even testified that she used a step stool to perform some of her job duties, which could have brought her closer in height to Bollin. The court's reasoning required the court to make an inference from the evidence. While the Commission could have inferred from Bollin's testimony that claimant would have been required to perform lifting at or above the shoulder, it chose not to do so. It was the responsibility of the Commission to resolve conflicts in the evidence and assign weight to the evidence, it is not the role of this court to reweigh evidence and substitute our judgment for that of the Commission. *ABF Freight System*, 2015 IL App (1st) 141306WC, ¶ 19. While different inferences could be drawn from the evidence, we cannot say that the Commission's initial determination that claimant failed to prove she performed lifting at or above the shoulder level was against the manifest weight of the evidence.

¶ 51 The Commission’s determination that Dr. Li’s medical opinion was more persuasive than that of Dr. Schierer was also supported by the evidence. Dr. Li opined that claimant’s left shoulder injury was not causally related to her employment because claimant did not perform repetitive lifting above the shoulder level. Dr. Li testified that he based his opinion on claimant’s description of her job duties, his physical examination of claimant, and his review of claimant’s medical records. Dr. Li specifically testified that claimant reported her job duties required her to perform work at the waist level. In contrast, Dr. Schierer opined that claimant’s shoulder injury was causally related to her employment because claimant performed repetitive “overhead” lifting. We reiterate that claimant herself never testified that her job duties required overhead lifting. As such, we cannot say that the Commission’s determination that Dr. Li’s medical opinion was more persuasive than that of Dr. Schierer was against the manifest weight of the evidence.

¶ 52 In sum, it was the Commission’s responsibility to resolve conflicts in the evidence, assess the credibility of witness, assign weight to evidence, and draw reasonable inferences from the record. *ABF Freight System*, 2015 IL App (1st) 141306WC, ¶ 19. Because there was evidence supporting the Commission’s initial decision denying claimant benefits under the Act, we cannot say that the Commission’s decision was against the manifest weight of the evidence.

¶ 53 III. Conclusion

¶ 54 For the reasons stated, we reverse the circuit court’s judgment reversing the Commission’s initial decision and remanding to the Commission for an award of benefits to claimant; vacate the Commission’s decision and opinion on remand; vacate the circuit court’s subsequent decision confirming the Commission’s decision and opinion on remand; and reinstate the Commission’s initial decision.

No. 4-23-0973WC

¶ 55 Reversed in part; vacated in part; Commission's initial decision reinstated.