

2021 IL App (5th) 210024WC-U
No. 5-21-0024WC
Order filed September 23, 2021

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

JEFFREY BULLARD,)	Appeal from the Circuit Court
)	of Jefferson County.
Appellant,)	
)	
v.)	No. 19-MR-117
)	
THE ILLINOIS WORKERS')	
COMPENSATION COMMISSION <i>et al.</i>)	
)	Honorable
(Mt. Vernon Police Department,)	Michael J. Valentine,
Appellee).)	Judge, Presiding.

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

ORDER

¶ 1 *Held:* (1) The Illinois Workers' Compensation Commission's finding that claimant failed to establish a causal connection between his work accident and his conditions of ill-being was not against the manifest weight of the evidence; (2) the Illinois Workers' Compensation Commission's decision that claimant was not entitled to temporary total disability benefits was not against the manifest weight of the evidence; and (3) the Illinois Workers' Compensation Commission's decision that claimant was not entitled to permanent partial disability benefits was not against the manifest weight of the evidence.

¶ 2 Claimant, Jeffrey Bullard, filed an application for adjustment of claim pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2014)) for injuries he allegedly sustained while in the employ of respondent, Mt. Vernon Police Department. Following a hearing, the arbitrator found that claimant sustained an accident arising out of and occurring in the course of his employment with respondent. The arbitrator further found that because claimant reached maximum medical improvement (MMI) from his injuries three months after the accident, his current conditions of ill-being were not causally related to the accident. Accordingly, the arbitrator awarded claimant medical expenses through the date of MMI, but denied claimant's requests for temporary total disability (TTD) benefits for a period after the date of MMI and permanent partial disability (PPD) benefits. The Illinois Workers' Compensation Commission (Commission) affirmed and adopted the decision of the arbitrator. On judicial review, the circuit court of Jefferson County confirmed the decision of the Commission. In this appeal, claimant challenges the Commission's findings with respect to causation, TTD benefits, and PPD benefits.¹ We affirm.

¶ 3 I. BACKGROUND

¶ 4 On or about June 12, 2014, claimant filed an application for adjustment of claim alleging injuries to his left arm, left hand, and the person as a whole while in the employ of respondent. Specifically, claimant alleged that his injuries occurred on March 5, 2014, due to a "[f]all on ice." The matter proceeded to an arbitration hearing on October 14, 2016, before arbitrator Christina Hemenway. The issues in dispute included accident, causation, medical expenses, period of TTD, and the nature and extent of the injuries. The following factual recitation is taken from the evidence adduced at the arbitration hearing.

¹Claimant also raises the issue of accident in his brief. However, the Commission found that claimant met his burden of proving an accident arising out of and occurring in the course of his employment with respondent. Since claimant prevailed on this issue below, we do not address this issue in the analysis section of the disposition.

¶ 5 Claimant testified that as of March 2014, he had been employed by respondent for almost 20 years. His rank was “detective captain.” Claimant was also assigned to the “high risk team” as the assistant team commander. Claimant described the high-risk team as a “combined police department, sheriff’s office swat [*sic*] team.” Claimant noted that he had been injured throughout his career as a police officer. He recounted, for instance, that in the mid-2000s, while attempting to arrest a suspect, he injured his left shoulder, which was symptomatic for a few days. Claimant also recalled a prior injury to his left forearm. Claimant testified that he was working full duty without restrictions at the time of the accident at issue and was not having any symptoms in either his left shoulder or left wrist. Claimant noted, however, that he was “being guarded” at the time of the accident, as he had injured his right shoulder prior to the March 5, 2014, accident.

¶ 6 Claimant testified that on March 5, 2014, the high-risk team was scheduled to engage in training exercises. When claimant showed up for work that day, he began transferring gear from his squad car to the truck used by the high-risk team. He recounted that the parking lot was icy. As claimant approached the truck, he slipped on a patch of ice and lost his balance. Claimant was able to regain his balance by grabbing a handrail on the passenger side of the truck and pulling his body toward the vehicle. Claimant testified that he felt immediate pain in his left shoulder and left wrist “from the pulling, bouncing and then twisting, changing direction that happened when [he] reached out to grab the handrail.” The accident was captured on a parking lot security camera. Respondent offered the video into evidence. Claimant testified that he had seen the video, which is just short of 2½ minutes long.

¶ 7 Following the accident, claimant participated in the scheduled training exercises. Claimant could not recall the specific training events of that day, but acknowledged that the training had “a certain physical element to it.” He noted that the exercises typically involve building clearing,

search warrant execution, hostage operations, armed barricades, and firearms training. Further, he testified that he is a hands-on leader at training and “get[s] involved” with the exercises.

¶ 8 The day after the accident, claimant completed an “employee’s accident report.” In the report, claimant indicated that he was carrying work gear to a truck when he slipped on a sheet of ice in the parking lot. Claimant further indicated that to keep from falling, he grabbed a handrail near the door of the truck, held himself up, and bounced off the truck. He specified that during the occurrence, his body “violent[ly] jerked around and hit the [high-risk team] truck,” resulting in pain to his left wrist and left shoulder. A supervisor’s accident investigation report was also completed by C.F. Deichman the day after the accident. Deichman’s report indicated that claimant had slipped on ice in the parking lot and grabbed the handrail of the truck to prevent himself from falling. Claimant advised Deichman that “the jerking/twisting caused by grabbing the [hand]rail” resulted in pain and discomfort in his left wrist and left shoulder.

¶ 9 Both accident reports list Officer Matthew Gordon as the only witness to the event. Gordon, who no longer works for respondent, was called to testify by claimant. Gordon was inside the truck at the time of the accident. Although Gordon heard claimant hit the side of the truck, he did not see claimant slide into the vehicle or grab the handrail. Gordon testified that when he saw claimant shortly after the incident, claimant “had a look of discomfort on his face.”

¶ 10 Claimant did not seek medical care until March 21, 2014, 16 days after the accident. Claimant attributed the delay to the hope that his symptoms would improve on their own. During the period between the accident date and the date he sought medical treatment, claimant worked regular duty for respondent. Claimant eventually underwent surgery for both his left shoulder and his left wrist. At the arbitration hearing, claimant testified that his shoulder and wrist were better and he can carry out his regular duties as a police officer. He noted, however, that he experiences

soreness over the surgical sites if he has been doing physical activities.

¶ 11 The medical records establish that on March 18, 2014, claimant presented to Dr. James Emanuel for an independent medical evaluation of his right shoulder, which claimant had injured in a separate incident at work on July 12, 2013. Although there is no mention in Dr. Emanuel's notes of an accident resulting in injuries to claimant's left shoulder (or left wrist), Dr. Emanuel did perform an examination of both shoulders. Dr. Emanuel noted that the left shoulder "demonstrated full rotator cuff strength, normal stability, no significant tenderness, [and] no bursitis impingement."

¶ 12 As noted, claimant first sought treatment for his left shoulder and left wrist at Express Care of Mt. Vernon (Express Care) on March 21, 2014. Claimant provided a history of injury consistent with his testimony. He reported that he experiences pain in both the left shoulder and wrist with use. Claimant described the pain as "mild" in nature, with no accompanying weakness. On examination, claimant exhibited mild tenderness over the volar aspect of the radial side of the left wrist, although range of motion was normal. With regard to the left shoulder, there was mild tenderness in the area of the rhomboid muscles, normal range of motion in all directions, no weakness, and normal reflexes. X rays of the left wrist and the left shoulder showed mild degenerative joint disease in both areas, but no evidence of fractures. Claimant was diagnosed with sprains of his left wrist and left shoulder and was prescribed pain medication. The doctor wrote that claimant suffered a "traction type of injury which was mild in nature [and] should get better on its own." Claimant was allowed to return to regular work duties but was advised to rest his left arm when he was able to do so.

¶ 13 On April 28, 2014, claimant returned to Express Care for a follow up. Claimant reported that he was still experiencing pain in both the left wrist and the left shoulder and that the pain

increased with any movement. On examination, claimant exhibited mild tenderness in the left wrist with normal range of motion. There was also mild tenderness in the left shoulder. Range of motion of the left shoulder was normal, although claimant reported some increased pain with motion. Claimant was again diagnosed with sprains of the wrist and shoulder. He was instructed to take Motrin, continue to work full duty, and follow up with an orthopedist on April 30.² Claimant returned to Express Care on June 6, 2014, for a follow up from the accident and a urine drug screen. Claimant's complaints and examination were unchanged at that time.

¶ 14 Claimant next sought medical care on September 4, 2014, when he returned to Dr. Emanuel. At that time, Dr. Emanuel had agreed to take over management of claimant's right shoulder condition (related to his work accident of July 12, 2013). There is no reference in Dr. Emanuel's record of claimant's March 2014 accident or the injuries to his left shoulder and left wrist. Nevertheless, Dr. Emanuel performed a full physical examination of both shoulders, noting that the left shoulder appeared normal with no atrophy or scapular winging. He further noted that range of motion and strength in the left shoulder were normal and there was no tenderness to palpation. In addition, impingement sign, Neer test, instability test, apprehension test, Sulcus test, and anterior and posterior tests were all negative.

¶ 15 On September 17, 2014, Dr. Emanuel performed a subacromial decompression, rotator-cuff repair, debridement, spur removal, and distal clavicle resection of claimant's right shoulder. Claimant followed up with Dr. Emanuel on September 25, 2014, and noted continued pain. Claimant was released to one-arm duty at that time.

¶ 16 On October 8, 2014, claimant presented to Express Care for an annual police department physical. The note of the physical states that claimant "denies any medical complaints." There was

²The record does not disclose any follow up with an orthopedist on that date.

no mention of the left shoulder or left wrist. Claimant testified that he informed personnel at Express Care that he was still having problems and was trying to get an MRI approved through workers' compensation. He believed that since his complaints had previously been recorded, no one at the facility bothered to write them down again.

¶ 17 Records from Express Care include a page of undated handwritten notes, which appear to reflect telephone calls. One note states that claimant “[w]ould like to go ahead [and] see if we can get his MRI going on his [left] wrist [and] shoulder. He has had his surgery on his [right] shoulder done. His [left] shoulder is still hurting, but his wrist is feeling numb [and] tingling now.” Another note states a message had been left to approve an orthopedic referral on October 30, 2014. There is no corresponding office note of an orthopedic visit on that date.

¶ 18 Claimant followed up with Dr. Emanuel for his right shoulder on three occasions between November 17, 2014, and January 20, 2015. At each examination, it was noted that claimant was participating in physical therapy or work hardening. There is no mention in the records of problems with claimant's left shoulder or wrist. Claimant was released to full duty at MMI for his right shoulder on January 20, 2015.

¶ 19 On March 25, 2015, claimant presented to Dr. Nathan Mall. Dr. Mall's note of that visit reflects that claimant slipped on a patch of ice, grabbed onto a truck with his left arm, and suffered a traction type of injury to the left shoulder. Claimant reported that he was able to pull himself toward the truck to avoid falling and developed some left wrist pain. Claimant told Dr. Mall that he had been working full duty except for a period from September 2014 to January 2015, when he was on light duty due to the right shoulder surgery. Claimant stated that during the work hardening for his right shoulder, his left shoulder pain significantly worsened.³ On physical examination, Dr.

³The work hardening records were not offered into evidence at the arbitration hearing.

Mall noted that claimant demonstrated good shoulder range of motion bilaterally, minimal to no acromioclavicular pain on the left or right, good rotator cuff strength bilaterally, and positive O'Brien's test in the left shoulder. Claimant had some mild pain to palpation in the bicipital groove and pain with dynamic labral compression testing. In addition, claimant was tender over the scapholunate joint and the triangular fibrocartilage complex (TFCC) area of the left wrist. Updated X rays showed no evidence of significant arthritis in the left wrist or left shoulder. Dr. Mall's assessment was a possible superior labrum anterior and posterior (SLAP) tear of the left shoulder and possible left scapholunate tear versus TFCC injury of the left wrist. Dr. Mall recommended an MRI arthrogram of the shoulder and the wrist. Dr. Mall stated that traction type injuries such as the one described by claimant "are a very common mechanism of injury to the shoulder" and can cause a SLAP or rotator cuff tear. Dr. Mall therefore opined that claimant's left shoulder condition is causally connected to the March 2014 work accident. With regard to the left wrist, Dr. Mall noted that a heavy gripping type maneuver such as the one described by claimant can put a lot of force on the wrist and cause an injury. As such, Dr. Mall also opined that claimant's left wrist condition is causally connected to the March 2014 work accident.

¶ 20 On March 31, 2015, claimant underwent the MRI arthrograms ordered by Dr. Mall. The MRI arthrogram of the left wrist revealed a tear to the peripheral ligamentous portion of the TFCC and a full thickness tear in the proximal attachment of the ulnar collateral ligament. The MRI arthrogram of the left shoulder revealed a superior labral tear extending from the biceps labral anchor to the posterior aspect of the superior labrum (SLAP type II), tendinopathy in the distal supraspinatus, fraying on the bursal side of the supraspinatus tendon, and acromioclavicular osteoarthritis. Claimant returned to Dr. Mall the same day and discussed the findings. Dr. Mall recommended a cortisone injection to the left shoulder followed by anti-inflammatories and

physical therapy for both the wrist and the shoulder. Claimant underwent five physical therapy sessions for his shoulder and wrist from April 9 through April 23, 2015.

¶ 21 Claimant returned to Dr. Mall on April 28, 2015. Dr. Mall noted that claimant had made some improvements with physical therapy but continued to have a dull, aching pain in the left shoulder with certain activities. Dr. Mall recommended a referral to Dr. Matthew Collard for the left wrist. With regard to the left shoulder, Dr. Mall believed conservative care had been exhausted and that claimant would benefit from surgery. Dr. Mall again opined that both conditions and the need for treatment were causally related to the work accident. Claimant returned to Dr. Mall on May 29, 2015, at which time the doctor reiterated that claimant had plateaued with conservative care for the shoulder and needed surgery and that claimant should see a hand surgeon for the wrist injury.

¶ 22 On June 12, 2015, claimant underwent an independent medical examination by Dr. Jason Browdy. Claimant told Dr. Browdy that he was loading gear into a truck and when he went to close the door, he slipped on ice. Claimant used his left arm to grab onto a handrail on the side of the truck to keep from falling. Claimant reported that when he grabbed onto the handrail, he pulled “very forcefully” and “his body swung around and he hit his opposite shoulder on the truck.” Claimant entered a written statement into Dr. Browdy’s electronic medical record. That statement provided:

“I hurt my left shoulder and wrist while falling on a patch of ice. I reach [*sic*] for a hand rail with my left hand and pulled myself hard to get from going down. While pulling my body weight caused me to swing to my right and slam into the *** truck the hand rail was attached to. When I did this I felt pain in both the shoulder and wrist.”

Claimant reported grinding, weakness, and popping in the left shoulder as well as occasional

nocturnal pain. He also reported significant pain in the left wrist, primarily over the TFCC, which he stated was progressively worsening.

¶ 23 Dr. Browdy reviewed the MRI arthrograms. With regard to the left shoulder, he noted some degenerative changes as well as a possible linear signal within the superior labrum, consistent with a subtle tear to the biceps anchor and possibly to the labrum. As to the left wrist, he recommended more weight be given to the radiologist's reading than his own. On physical examination of the left shoulder, Dr. Browdy noted some compromise in range of motion and some tenderness in the bicipital groove and at the supraspinatus insertion, but full strength of the rotator cuff.

¶ 24 Dr. Browdy reviewed the video of claimant's accident. He noted claimant walked across a parking lot towards a truck when his feet slipped and he grabbed a railing with his left hand. In Dr. Browdy's opinion, claimant's "personal description of the incident is not consistent with the video evidence [he] reviewed." In Dr. Browdy's view, claimant "slipped slightly, and regained his balance" and then "used his left arm to grab onto a rail on the side of the truck." Moreover, Dr. Browdy stated that "there was no evidence of any forceful pulling of the wrist or shoulder and there was no evidence that [claimant] swung around and slammed his body into the truck" as claimant described.

¶ 25 In terms of diagnosis, Dr. Browdy opined that claimant had left shoulder pain, left proximal biceps tendinopathy, left acromioclavicular joint arthropathy, and a left TFCC tear. Dr. Browdy opined that the incident depicted on the video "appear[ed] to be fairly benign" and would not have caused a SLAP tear, proximal biceps tendinopathy, or a TFCC tear. Further, he did not believe that the incident of March 5, 2014, as depicted in the video, would have caused an aggravation of any preexisting conditions. Dr. Browdy believed that claimant's left shoulder pain was attributable to the proximal biceps tendon.

¶ 26 On September 30, 2015, claimant returned to Dr. Mall. The examination and complaints remained unchanged. Dr. Mall administered a cortisone injection and continued to recommend left shoulder surgery.

¶ 27 On November 5, 2015, claimant presented to Dr. Collard for his left wrist. On examination, Dr. Collard noted full range of motion of the left wrist, tenderness over the radial styloid, a mildly positive Finklestein's test consistent with stenosing tenosynovitis, and a positive TFCC grind test. Dr. Collard reviewed the MRI arthrogram and found it was consistent with a peripheral TFCC tear at the level of the ulnar collateral ligament with mild sub-sheath injury of the extensor carpi ulnaris. Dr. Collard diagnosed a traumatic tear of the TFCC and tenosynovitis. He recommended surgery. Claimant told Dr. Collard that he was preparing to undergo shoulder surgery and would be unable to have wrist surgery until after that time. As such, Dr. Collard administered an injection into the wrist and prescribed anti-inflammatory medication. Claimant followed up with Dr. Collard on December 9, 2015. He reported that the injection provided relief for about one week, but that the pain had returned. The examination, diagnosis, and recommendation remained otherwise unchanged.

¶ 28 On December 14, 2015, claimant underwent left shoulder surgery by Dr. Mall, consisting of an arthroscopic rotator cuff repair, partial synovectomy, open acromioclavicular joint resection, and open subpectoral biceps tenodesis for superior labral tear. Claimant followed up with Dr. Mall on December 30, 2015, and reported he was doing well. Physical therapy was ordered at that time. Claimant followed up with Dr. Mall on January 27, February 17, and March 23, 2016, at which times improvement was noted. It was further noted that claimant was complaining of pain in the lateral aspect of the elbow, which Dr. Mall diagnosed as elbow tendonitis.

¶ 29 On April 4, 2016, claimant underwent surgery by Dr. Collard, consisting of a left wrist

arthroscopy with TFCC repair. He followed up with Dr. Collard on April 13 and May 11, 2016, and reported he was doing well.

¶ 30 On May 4, 2016, claimant saw Dr. Mall and reported minimal complaints. He was progressing with physical therapy, but still felt somewhat stiff and weak. Dr. Mall recommended an additional three weeks of regular physical therapy, followed by two weeks of work conditioning when claimant was released for the wrist.

¶ 31 Claimant returned to Dr. Mall on June 8, 2016. At that time, claimant reported some mild pain in the front of the shoulder but otherwise felt he could return to his normal job duties. On examination, claimant had full strength and good range of motion both actively and passively. Dr. Mall placed claimant at MMI, authorized him to return to work full duty with no restrictions, and released him from care at that time. Claimant also returned to Dr. Collard on June 8, 2016, and reported he was doing well, with only occasional pain with certain activities. Dr. Collard released claimant from his care at that time with no restrictions noted.

¶ 32 Dr. Browdy testified by way of deposition on October 14, 2015. Dr. Browdy is a board-certified orthopedic surgeon concentrating in sports medicine with 75% of his practice devoted to treatment of the shoulder. Dr. Browdy testified that he is not a wrist expert or specialist. During his testimony, Dr. Browdy reiterated that what he saw on the video when claimant grabbed the handrail was “a very subtle jerk on the arm” that was “not even close” to what claimant described. He opined that the event shown in the video did not cause or aggravate the preexisting, asymptomatic conditions in claimant’s left shoulder or left wrist. On cross-examination, the following colloquy took place:

“Q [Claimant’s attorney]: Now, with your physical exam and the studies you had available to you, this case adds up, right? I mean, he presents to you in a way that’s

consistent with the diagnosis and the need for surgery, right?

A [Dr. Browdy]. It does. I mean, you know, and I'll be perfectly honest. If I didn't have that surveillance video, I would probably have completely agreed with everything up to that point. In fact, I was ready to make my report with that in mind until I looked at the video. And, you know, a lot of people like to downplay video and say it's bad evidence, it doesn't mean anything, but in my opinion, it's critical. What I saw is highly unlikely to have caused an acute labral tear, an acute biceps injury, or an [acromioclavicular] injury."

¶ 33 At the arbitration hearing, claimant testified that he had reviewed Dr. Browdy's deposition transcript and report and disagreed with his interpretation of the video. He explained:

"One specific indication *** is that Dr. Browdy said that he believed from watching the video, that I had already re-obtained my balance prior to even grabbing the handrail.

When I went back and broke the video into still images to show that, it was clear that when I first grabbed the handrail, that I still had my left foot approximately a foot and a half up in the air and had not regained balance.

Dr. Browdy also said in his reviewing of the video, that he couldn't even tell if I had struck the *** truck while I was trying to maintain my balance.

Clearly, from the video, you can see when I grab the handrail and pull it. You can see my right shoulder hit the passenger door, and you can see me change directions to where I go shoulder into the truck, bouncing off of it, and then I'm facing squarely towards the truck."

¶ 34 Based on the foregoing evidence, the arbitrator initially determined that the accident of May 5, 2014, arose out of and occurred in the course of claimant's employment with respondent. The arbitrator concluded, however, that claimant failed to prove by a preponderance of the

evidence that his left shoulder and left wrist conditions are causally related to the work accident. In support of this finding, the arbitrator cited “the delay in treatment with respect to the[] conditions, the long periods of no treatment, the security video, *** the type of injuries diagnosed when compared to the video and the testimony of Dr. Browdy,” and evidence that claimant continued to engage in physical activity at work. The arbitrator found Dr. Browdy to be more credible than Dr. Mall or Dr. Collard. Dr. Browdy, who viewed the video, opined that the incident of March 5, 2014, neither caused nor aggravated claimant’s left shoulder or left wrist condition. The arbitrator noted that Dr. Mall did not review the video of the incident, and she concluded that the description of the accident provided by claimant to Dr. Mall “appears to be overstated based on what is in the video.” The arbitrator further recounted that Dr. Collard did not offer a causation opinion with regard to claimant’s left wrist condition. The arbitrator also noted that the history recorded by Dr. Mall and Dr. Collard “included descriptions of torqueing [*sic*], twisting, pulling, and violent [*sic*].” The arbitrator determined, however, that the video was “not convincing for causing a rotator cuff tear, a SLAP, and a TFCC tear.” The arbitrator acknowledged that the video “does capture a slip on the icy parking lot and [claimant] grabbing the handrail on the truck and sort of falling against the truck.” However, shortly later, claimant is seen moving his left arm up and down freely “without any indication of discomfort.”

¶ 35 The arbitrator concluded that claimant reached MMI from his work-related injuries on June 6, 2014, and, therefore, respondent was liable for medical treatment only through that date. Having found that claimant reached MMI on June 6, 2014, the arbitrator denied TTD benefits, which claimant requested for the period of December 14, 2015, through December 30, 2015 (following his left shoulder surgery). Finally, the arbitrator denied claimant’s request for PPD benefits, finding that claimant “sustained minor and temporary strains to the left shoulder and left wrist, for

which he received minimal medical treatment on three occasions.”

¶ 36 Thereafter, claimant sought review of the arbitrator’s decision before the Commission. The Commission unanimously affirmed and adopted the decision of the arbitrator.⁴ Claimant then sought judicial review of the Commission’s decision in the circuit court of Jefferson County. On January 12, 2021, the circuit court confirmed the decision of the Commission. This appeal ensued.

¶ 37

II. ANALYSIS

¶ 38 On appeal, respondent challenges the Commission’s findings with respect to causation, TTD benefits, and PTD benefits. We address each contention in turn.

¶ 39

A. Causation

¶ 40 Claimant argues that the Commission’s decision that he failed to prove a causal connection between his employment and the conditions of ill-being of his left shoulder and left wrist after June 6, 2014, is against the manifest weight of the evidence. In support of this argument, claimant notes that he had no significant problems or symptoms with either his left shoulder or left wrist near the time of the March 5, 2014, accident. Further, claimant contends that the opinions of Dr. Mall (regarding his left shoulder) and Dr. Collard (regarding his left wrist) are more credible than those of Dr. Browdy.

¶ 41 At the outset, we note that claimant’s brief on appeal fails to cite any case law or other legal authority in support of his causation argument. Illinois Supreme Court Rule 341(h)(7) (eff. Oct. 1, 2020) requires the appellant’s brief to include an argument section “which shall contain the

⁴In violation of Illinois Supreme Court Rule 342 (eff. Oct. 1, 2019), the appendix to claimant’s brief does not include a copy of the Commission’s decision. In addition, claimant’s appendix is not paginated in accordance with the procedure outlined in Illinois Supreme Court Rule 342 (eff. Oct. 1, 2019). Where a party fails to comply with the supreme court rules, the reviewing court has the inherent authority to dismiss the appeal. *Epstein v. Galuska*, 362 Ill. App. 3d 36, 42 (2005). While we opt not to take such a drastic measure in this case, we remind counsel that our supreme court rules are not advisory suggestions, but, rather, rules to be followed. See *In re Marriage of Hluska*, 2011 IL App (1st) 092636, ¶ 57.

contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on.” As a reviewing court, we are entitled to have the issues clearly defined, pertinent authority cited, and a cohesive legal argument presented. *Walters v. Rodriguez*, 2011 IL App (1st) 103488, ¶ 5. The appellate court is not a depository in which the appellant may foist the burden of argument and research. *Lewis v. Heartland Food Corp.*, 2014 IL App (1st) 123303, ¶ 5. Arguments that are not supported with citations to authority fail to meet the requirements of Rule 341(h)(7) and are forfeited. *TTC Illinois, Inc./Tom Via Trucking v. Illinois Workers’ Compensation Comm’n*, 396 Ill. App. 3d 344, 355 (2009). By failing to cite any case law or other legal authority in support of his position, claimant has forfeited the causation issue.

¶ 42 Forfeiture notwithstanding, claimant’s contention of error fails on the merits. 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 or she 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 or her claim, including a causal connection between the injury and his or her 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); *Freeman United Coal Mining Co. v. Industrial Comm’n*, 308 Ill. App. 3d 578, 586 (1999). Whether a causal relationship exists between a claimant’s employment and his or her condition of ill-being is a question of fact. *Certi-Serve, Inc. v. Industrial Comm’n*, 101 Ill. 2d 236, 244 (1984); *Bolingbrook Police Department v. Illinois Workers’ Compensation Comm’n*, 2015 IL App (3d) 130869WC, ¶ 52. 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. This is especially true with respect to medical issues, to which we owe the Commission heightened deference because of the expertise it possesses in the medical arena. *Long v. Industrial Comm'n*, 76 Ill. 2d 561, 566 (1979). As a reviewing court, we cannot reject or disregard permissible inferences drawn by the Commission simply because different or conflicting inferences may also reasonably be drawn from the same facts, nor can we substitute our judgment for that of the Commission on such matters unless the Commission's findings are against the manifest weight of the evidence. *Zion-Benton Township High School District 126 v. Industrial Comm'n*, 242 Ill. App. 3d 109, 113 (1993). A decision is against the manifest weight of the evidence only if an opposite conclusion is clearly apparent. *Ravenswood Disposal Services v. Illinois Workers' Compensation Comm'n*, 2019 IL App (1st) 181449WC, ¶ 15.

¶ 43 The principal pieces of evidence relied on by the Commission in finding that claimant failed to sustain his burden on causation were the delay in claimant's treatment, the gap in treatment, the video of the accident, and the testimony of Dr. Browdy. Applying the foregoing standards, we find ample evidence to support the Commission's finding that claimant failed to establish a causal connection between his work-related accident of March 5, 2014, and the conditions of ill-being involving his left shoulder and left wrist after June 6, 2014. First, claimant waited until 16 days after the accident to seek treatment for his injuries. Although claimant treated with Dr. Emanuel 13 days after the accident, this was for an unrelated injury. Strangely, there is no reference in Dr. Emanuel's records to the March 5, 2014, accident despite the fact that Dr. Emanuel examined claimant's left shoulder during the visit.

¶ 44 Second, there was a significant gap in claimant's medical treatment. Claimant initially sought care for his work injuries on March 21, 2014, at Express Care. He followed up at Express Care on April 28, 2014, and June 6, 2014. After the June 2014, visit, however, claimant waited

more than nine months (until March 25, 2015) to consult Dr. Mall about his left shoulder and left wrist. While there are multiple references in the Express Care records to orthopedic referrals on earlier dates, there are no corresponding office notes to confirm that these visits ever occurred.

¶ 45 Third, the Commission, in affirming and adopting the decision of the arbitrator, found that the description of the accident provided by claimant to Dr. Mall “appears to be overstated based on what is in the video.” According to claimant’s various descriptions of the accident, his body was “violent[ly] jerked,” “twist[ed],” and “slam[med] into the *** truck.” As described by the Commission (via the arbitrator), however, the incident was much gentler. The Commission noted that the video depicts claimant slipping on the icy parking lot, grabbing the handrail of the truck, and “sort of falling against the truck.” The Commission further noted that shortly after the incident, claimant is seen in the video using his left hand and arm freely “without any indication of discomfort.” Further, Dr. Browdy testified that he reviewed the video and concluded that the incident “appear[ed] to be fairly benign,” with “no evidence of any forceful pulling of the wrist or shoulder” and “no evidence that [claimant] swung around and slammed his body into the truck.” As such, Dr. Browdy opined that the event shown in the video was not causally connected to the conditions of ill-being of claimant’s left shoulder and left wrist and did not aggravate any preexisting, asymptomatic conditions in those parts of claimant’s body.

¶ 46 Notwithstanding the foregoing, claimant notes that Dr. Mall concluded that claimant’s left shoulder and left wrist conditions were caused by the accident of March 5, 2014. However, the Commission was faced with conflicting medical opinions on this issue. As noted above, Dr. Browdy opined that the event shown in the video was not causally connected to the conditions of ill-being of claimant’s left shoulder and left wrist and did not aggravate any preexisting, asymptomatic conditions in those parts of claimant’s body. Although Dr. Mall reached the opposite

conclusion, the Commission attributed less weight to Dr. Mall's opinion on the basis that Dr. Mall did not review the video of the accident, relying instead on a description of the accident which the Commission found inconsistent with what it observed on the video. As the trier of fact, it was within the province of the Commission to resolve this conflict adversely to claimant. *Hosteny*, 397 Ill. App. 3d at 674. Claimant also asserts that Dr. Collard "connected" the TFCC tear in his left wrist to the March 5, 2014, accident. However, in violation of the rules of our supreme court, claimant does not cite in his brief where Dr. Collard's opinion appears in the record. See Ill. S. Ct. R. 341(h)(7) (eff. Oct. 1, 2020) (requiring the appellant's brief to provide citation to the pages of the record relied on). Moreover, the Commission found that Dr. Collard did not offer a causal connection opinion. Our review of the record supports the Commission's finding. Finally, claimant questions Dr. Browdy's capacity to opine that there was no causal connection between claimant's accident and his left wrist condition since he admitted that he is not a "wrist expert." Despite Dr. Browdy's admission that he did not specialize in treating wrists, he did examine claimant's left wrist, reviewed the MRI arthrogram of claimant's left wrist, interviewed claimant about the accident, and reviewed the video of the accident. Considering this record, and given the Commission's role in judging the credibility of witnesses and weighing the evidence (*Hosteny*, 397 Ill. App. 3d at 674), the fact that Dr. Browdy admitted that he is not a "wrist expert" does not, by itself, render the Commission's causation finding as to the left wrist to be against the manifest weight of the evidence.

¶ 47 In short, the Commission's conclusion that claimant failed to establish that the conditions of ill-being involving his left shoulder and left wrist after June 6, 2014, were causally related to his work accident of March 5, 2014, is not against the manifest weight of the evidence. The video of the accident as described by the Commission is inconsistent with claimant's account of the

accident, claimant waited more than two weeks to seek treatment for his conditions, there was a significant gap in treatment for the conditions, and Dr. Browdy, the only physician to view the video, opined that the conditions were not causally related to claimant's work accident. Because a conclusion opposite that of the Commission is not clearly apparent, we affirm the Commission's decision that claimant failed to establish a causal connection between his work accident and his conditions of ill-being after June 6, 2014.

¶ 48 **B. TTD Benefits**

¶ 49 Claimant also challenges the Commission's denial of TTD benefits. Specifically, claimant contends that he is entitled to TTD benefits for the period from December 14, 2015, through December 30, 2015, the time he was off work due to his left shoulder surgery.

¶ 50 Again, claimant fails to cite any case law or other legal authority in support of his position. Furthermore, claimant's argument is grossly underdeveloped. The entire argument section for this issue consists of one nine-line paragraph. For these reasons, claimant has also forfeited review of this issue. See Ill. S. Ct. R. 341(h)(7) (eff. Oct. 1, 2020); *In re Marriage of Woodrum*, 2018 IL App (3d) 170369, ¶ 63 (noting that the failure to develop an argument on appeal and provide authority in support thereof results in forfeiture); see also *TTC Illinois, Inc./Tom Via Trucking*, 396 Ill. App. 3d at 355.

¶ 51 Forfeiture aside, claimant's argument presumes that his condition of ill-being after June 6, 2014 (when the Commission found that he reached MMI) is causally connected to his work accident. Having rejected claimant's argument that there is a causal connection between his work accident and the conditions of ill-being of his left shoulder and left wrist after June 6, 2014, we reject claimant's contention that the Commission's denial of TTD benefits was against the manifest weight of the evidence. See *Nascote Industries v. Industrial Comm'n*, 353 Ill. App. 3d 1067, 1072

(2004) (noting that once an employee has reached MMI, he or she is no longer eligible for TTD benefits).

¶ 52

C. PPD Benefits

¶ 53 Finally, claimant contends that he is entitled to PPD benefits. Specifically, claimant asserts that the Commission should have awarded him a scheduled award of PPD benefits representing a 12.5% loss of use of the left hand (for the left wrist) (see 820 ILCS 305/8(e)(9) (West 2014)) and 10% loss of use of the person as a whole (for the left shoulder) (see 820 ILCS 305/8(d)(2) (West 2014)).

¶ 54 Once again, claimant has failed to adequately develop this argument or cite any relevant case law or other legal authority in support thereof. Claimant argues that his request for a PPD award is supported by “the medical records introduced and [his] testimony as to his current symptoms.” However, claimant does not indicate what this supporting evidence provides or how it supports his position. Further, claimant does not direct us to the pages of the record on appeal where this supporting evidence can supposedly be found. As such, claimant has forfeited review of this issue on appeal. Ill. S. Ct. R. 341(h)(7) (eff. Oct. 1, 2020); *In re Marriage of Woodrum*, 2018 IL App (3d) 170369, ¶ 63; *TTC Illinois, Inc./Tom Via Trucking*, 396 Ill. App. 3d at 355.⁵

¶ 55 Forfeiture aside, this argument lacks merit. Claimant argues that he should have been awarded a scheduled award under section 8(e) of the Act for his wrist injury and a person-as-a-whole award under section 8(d)(2) of the Act for his shoulder injury. To be entitled to section 8(e)

⁵Although we emphasize the deficiencies in claimant’s brief, we also find it necessary to admonish respondent’s attorney for violating Illinois Supreme Court Rule 341(h) (eff. Oct. 1, 2020), which is applicable to the appellee via Illinois Supreme Court Rule 341(i) (eff. Oct. 1, 2020). Respondent cites but two cases at the beginning of its argument section of its brief. Respondent does not otherwise cite to any legal authority in support of its position. Further, respondent does not cite to the pages of the record relied on. In addition, a large portion of respondent’s causation argument is lifted *verbatim* from the arbitrator’s decision and respondent neglects to address the TTD or PPD issues except for a short sentence in its conclusion.

benefits for the loss of use of a part of the human body, a claimant must show that the use of that particular member has been impaired. *McDaneld v. Industrial Comm'n*, 307 Ill. App. 3d 1045, 1054 (1999). Section 8(d)(2) provides for benefits in the following situations: (1) where a claimant sustains serious and permanent injuries not covered by section 8(c) (820 ILCS 305/8(c) (West 2014) (relating to injuries resulting in disfigurement)) or section 8(e) of the Act (820 ILCS 305/8(e) (West 2014)); (2) where a claimant covered by section 8(c) or 8(e) of the Act also sustains either injuries which are not covered by those two section and such injuries do not incapacitate him from pursuing his employment but would disable him from pursuing other suitable occupations, or which have otherwise resulted in physical impairment; or (3) where a claimant suffers injuries which partially incapacitate him from pursuing the duties of his usual and customary line of employment but do not result in an impairment of earning capacity. 820 ILCS 305/8(d)(2) (West 2014). The employee has the burden to establish by a preponderance of the evidence the extent and permanency of his or her injury. *Chicago Park District v. Industrial Comm'n*, 263 Ill. App. 3d 835, 843 (1994). The nature and extent of an employee's disability is a question of fact to be resolved by the Commission. *Sysco Food Service of Chicago v. Illinois Workers' Compensation Comm'n*, 2017 IL App (1st) 170435WC, ¶ 50. Because of the Commission's expertise, its findings as to the nature of and extent of the disability should be given substantial deference. *Continental Tire of the Americas, LLC v. Illinois Workers' Compensation Comm'n*, 2015 IL App (5th) 140445WC, ¶ 45. We will not overturn the decision of the Commission regarding the nature and extent of an injury unless it is against the manifest weight of the evidence, *i.e.*, a conclusion opposite that of the Commission is clearly apparent. *Professional Transportation, Inc. v. Illinois Workers' Compensation Comm'n*, 2012 IL App (3d) 100783WC, ¶ 33.

¶ 56 Although it is undisputed that claimant suffered work-related injuries to his left shoulder

and left wrist, the Commission denied claimant's request for PPD benefits on the basis that claimant "sustained minor and temporary strains to the left shoulder and left wrist, for which he received minimal medical treatment on three occasions." The evidence of record supports the Commission's decision. When claimant presented to Express Care on March 21, 2014, the physician diagnosed sprains of his left wrist and left shoulder, determined that claimant's injuries were mild in nature and would get better on their own, and authorized claimant to return to his regular duties as a police officer. Claimant returned to Express Care for treatment on two additional occasions through June 6, 2014, his date of MMI. The medical records reflect, however, that the next time claimant sought medical treatment for his left shoulder or left wrist was on March 25, 2015, more than nine months later, when claimant consulted Dr. Mall. Further, claimant presented no evidence (medical or otherwise) that he sustained a partial impairment of his left arm to support an award of PPD benefits under section 8(e) of the Act. In addition, claimant failed to show that the injury to his left shoulder resulted in serious and permanent injuries, disabled him from pursuing other suitable occupations, otherwise resulted in physical impairment, or partially incapacitated him from pursuing the duties of his usual and customary line of employment. To the contrary, claimant did not identify any impairment in his activities of daily living. Further, he testified that his shoulder and wrist were better and he is able to carry out his regular duties as a police officer. Although claimant stated that he experiences soreness over the surgical sites if he has been doing physical activities, the Commission determined that any medical treatment after June 6, 2014, was unrelated to his injuries. The surgeries occurred well after claimant reached MMI from his work accident. Based on this record, we find that the Commission's finding that claimant was not entitled to a PPD award for his injuries was not against the manifest weight of the evidence.

¶ 57

III. CONCLUSION

¶ 58 For the reasons set forth above, we affirm the judgment of the circuit court of Jefferson County, which confirmed the decision of the Commission.

¶ 59 Affirmed.