2024 IL App (1st) 231896WC-U

Workers' Compensation
Commission Division
Order Filed: May 24, 2024

No. 1-23-1896WC

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IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICE-WORKERS' COMPENSATION DIVISION DISTRICT

JERRY FARUZZI, Appellant, v. THE ILLINOIS WORKERS' COMPENSATION COMMISSION *et al.*, (Village of Alsip, Appellee).	)))))))))))	Appeal from the Circuit Court of Cook County Nos. 2020 L 050472 Honorable Daniel P. Duffy, Judge, Presiding.

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

ORDER

¶ 1 *Held:* We affirmed the judgement of the circuit court which confirmed a decision of the Illinois Workers' Compensation Commission, denying the claimant, a firefighter, benefits under the Illinois Workers 'Compensation Act (820 ILCS 305/1 *et seq.* (West 2014)) for coronary artery disease.

¶ 2 The claimant, Jerry Faruzzi, filed the instant appeal from an order of the Circuit Court of

Cook County which confirmed a decision of the Illinois Workers' Compensation Commission (Commission) denying him benefits under the Illinois Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2014)). For the reasons which follow, we affirm the judgement of the circuit court.

¶ 3 The following recitation of the facts relevant to a disposition of this appeal is taken from the evidence adduced at the arbitration hearing held on November 28 and 29, 2016.

¶ 4 At all times relevant, the claimant was a firefighter/paramedic employed by the Village. He had been employed in that capacity for more than 28 years, rising to the rank of lieutenant. The claimant's duties as a firefighter/paramedic required him to perform hazardous tasks under emergency conditions, involving strenuous exertion under adverse conditions such as fire, heat, smoke, darkness, and cramped and confined surroundings. He was also subjected to emotional and psychological stress.

¶ 5 The Village's firefighters are required to undergo periodic fitness-for-duty examinations. Prior to January 2015, the claimant underwent 13 such examinations and was found fit for duty. The claimant testified that, prior to 2015, he had no problems with his heart and had not received medical treatment for heart problems. He admitted that he experienced shortness of breath with heavy exertion going back to the summer of 2014 and had experienced palpitations and light headedness. The claimant also admitted that he smoked less than one pack of cigarettes per day for a period of 10 years but had not smoked since 1994. Medical records of the claimant's primary care provider, Dr. Amit Joshi, admitted in evidence reflect that the claimant had high cholesterol levels from 2000 through 2014 and was treated for the condition with Lipitor. Dr. Joshi's records also reflect that, on March 29, 2004, the claimant underwent echocardiography due to chest pains

he had experienced one year earlier and recent heart palpations. When the claimant was seen by Dr. Charles Berkelhammer, a gastroenterologist, on April 29, 2011, he reported a family history of heart problems but denied chest pains, shortness of breath, or congestive heart failure.

¶ 6 On January 16, 2015, the claimant was examined by Dr. Terence Moisan, the Village's Medical Director, for a scheduled fitness for duty examination. During that examination Dr. Moisan noted an abnormal EKG and instructed the claimant to see a cardiologist. Dr. Moisan placed the claimant on off-work status.

¶ 7 On that same day, the claimant met with Thomas Styczynski, the Village's Fire Chief, and informed him of Dr. Moisan's instructions. An Illinois Workers' Compensation Form 45 was filled out and signed by Chief Styczynski. The form listed the claimant's injury as "Heart (cardiac) – discovered during yearly physical." The form also stated: "while at yearly physical, Dr. Moisan (co physician) saw unusual activity in EKG and recommended to see a cardiologist for follow up & remain off work."

¶ 8 On January 22, 2015, the claimant was seen by Dr. Yogesh Tejpal, a cardiologist. On January 23, 2015, the claimant underwent cardiac catheterization which proved to be abnormal, and a stent was placed in his right descending artery due to a 95% blockage. The procedure was performed by Dr. Tejpal at MetroSouth Hospital.

¶ 9 After an examination during a follow-up appointment on February 5, 2015, Dr. Tejpal noted that the claimant's cardiovascular examination was fairly normal, and he recommended that the claimant begin cardiac rehabilitation. On February 26, 2015, Dr. Tejpal noted that the claimant had undergone a treadmill stress test, and he was of the belief that the claimant had recovered well from his cardiac procedure. Dr. Tejpal released the claimant to return to work without restrictions

and found him to be at maximum medical improvement (MMI).

¶ 10 On March 6, 2015, Dr. Moisan wrote to Dr. Tejpal, inquiring whether the claimant could safely return to duty as firefighter. If Dr. Tejpal was of the opinion that the claimant could return to duty, Dr. Moisan wrote that he would require that the claimant undergo a three-month period of rehabilitation prior to resuming fire suppression duties and would also require that the Village authorize the claimant's return to duty. On March 24, 2015, Dr. Tejpal wrote to Dr. Moisan, stating that he had monitored the claimant's oxygen saturation and respiratory rate and concluded that the results were normal.

¶ 11 The claimant underwent the recommended cardiac rehabilitation in a program at Silver Cross Hospital which he completed on May 18, 2015. On May 29, 2015, Dr. Tejpal once again released the claimant to return to work in a full-duty capacity. On June 13, 2015, Dr. Moisan authored a note setting forth the claimant's increased risk by returning to work as a firefighter and requesting that the claimant, his cardiologist, and the Village all agree to his return to work.

¶ 12 The claimant returned to full-duty work as a firefighter on June 15, 2015. He next saw Dr. Tejpal on June 29, 2015. Dr. Tejpal noted that the claimant had returned to work without any complaints, chest pain, or shortness of breath. On examination, Dr. Tejpal also noted that the claimant's physical examination was normal. Dr. Tejpal diagnosed the claimant with coronary artery disease with a successfully intervened distal coronary lesion. He found that clinically the claimant had done well with no active symptoms of shortness of breath or chest pains. Dr. Tejpal recommended that the claimant continue his exercise and medication regimen and instructed him to return in six months for a stress test.

¶ 13 The claimant testified that, while participating in a training exercise on July 15, 2015, he

began to experience shortness of breath. Later that day, the claimant notified the Village, stating that "during the search & rescue drill on 7-15-15 at the training tower I felt shortness of breath." The claimant noted that his shortness of breath lasted throughout the duration of the drill. Styczynski instructed the claimant to see his cardiologist. On July 17, 2015, Dr. Moisan placed the claimant on off-duty status.

¶ 14 When the claimant was examined by Dr. Tejpal on August 11, 2015, he complained of shortness of breath with activity at work. Dr. Tejpal diagnosed the claimant as suffering from dyspnea and coronary disease and recommended that the claimant have a stress echocardiogram. Dr. Tejpal placed the claimant on off-duty status. On August 27, 2015, the claimant underwent the recommended stress echocardiogram.

¶ 15 On September 15, 2015, the claimant was seen by Dr. Joshi. The notes of that visit reflect that the claimant complained of shortness of breath with heavy exertion and exercise. Dr. Joshi recommended that the claimant have a chest X-ray and laboratory tests.

¶ 16 On September 23, 2015, the claimant presented at Palos Community Hospital, complaining of chest pain. An X-ray of the claimant's chest was taken, the results of which were normal.

¶ 17 On September 29, 2015, the claimant was examined by Dr. Marlon Everett, a cardiologist, at the request of the Village. Dr. Everett prepared a written report, identifying the documents he reviewed, and the history provided by the claimant, including the onset of his symptoms and post catheterization rehabilitation. He also noted the claimant's current complaints and symptoms. Dr. Everett examined the claimant and noted one episode of exertional shortness of breath. According to the report, Dr. Everett found that the claimant suffered from coronary artery disease, possibly caused by high cholesterol, tobacco use, and family history. He noted that the claimant's coronary

artery disease was unlikely related to his occupation. Dr. Everett found based on his examination that the claimant had not reached MMI.

¶ 18 The claimant was seen on October 15, 2015, by Dr. Kathia Ortiz-Cantillo, a pulmonologist, on referral from Dr. Joshi. Dr. Ortiz-Cantillo noted that the claimant's lung examination revealed good entry and symmetric movement without abnormalities. Finding the cause of the claimant's shortness of breath to be unclear, Dr. Ortiz-Cantillo ordered a six-minute walk test and a pulmonary function study. The ordered studies were performed at Palos Community Hospital on October 23, 2015.

¶ 19 On November 18, 2015, the claimant returned for a follow-up visit with Dr. Ortiz-Cantillo, again complaining of shortness of breath. The notes of that visit reflect that the claimant's physical examination was normal. After reviewing the results of the studies performed at Palos Community Hospital, Dr. Ortiz-Cantillo diagnosed the claimant as suffering from shortness of breath and coronary artery disease. No treatment was recommended.

¶ 20 On November 1, 2015, Dr. Ortiz-Cantillo wrote to Dr. Joshi. In that correspondence, she wrote that the claimant's pulmonary function testing showed normal spirometry, normal total lung capacity, and normal diffusion capacity, and that she found no pulmonary limitation for his symptoms.

¶ 21 The claimant saw Dr. Tejpal on March 17, 2016, complaining of continued shortness of breath with exertion. Because the claimant's hypertension was under control, Dr. Tejpal did not believe that hypertension was the cause of his symptoms. He recommended that the claimant have an angiogram to rule out coronary disease. The claimant underwent the recommended angiogram which showed minimal obstructive disease, and when he was reevaluated on April 21, 2016, Dr.

Tejpal ruled out coronary disease as the cause of the claimant's symptoms.

¶ 22 Dr. Tejpal last examined the claimant on August 11, 2016, at which time he continued to complain of shortness of breath with exertion. Dr. Tejpal did not recommend further treatment.

¶ 23 On September 16, 2016, the claimant was examined by Dr. Claude Lawrence Zanetti, a pulmonologist, at the request of the Village. In a written report of that examination dated the same day, Dr. Zanetti noted the history provided by the claimant, including his family history of coronary artery disease which included heart bypass surgery for both of his parents, and his history of high cholesterol and medication. He also noted that the claimant had explained his duties as a firefighter. Dr. Zanetti recorded that he had reviewed the claimant's medical records, including the records of Drs. Tejpal, Moisan, and Ortiz-Carillo. Dr. Zanetti performed a physical evaluation of the claimant which included stair climbing. The report states that Dr. Zanetti diagnosed coronary artery disease, a history of smoking, hypertension, hyperlipidemia, and dyspnea with load exertion. Dr. Zanetti found that the claimant's tests had not replicated his duties as a firefighter and recommended further testing. According to Dr. Zanetti's report, the claimant had not reached MMI. When he was deposed on October 16, 2016, Dr. Zanetti testified that, on examination, he found the claimant to be a relatively healthy-appearing middle-aged male with normal vital signs and clear lungs. He stated that he performed pulmonary tests, including METS tests, and the claimant exceeded or met the requirements for a firefighter. Dr. Zanetti testified that the claimant's pulmonary function tests were normal as was his methacholine challenge test. He concluded that the claimant did not have exercised-induced asthma or reactive airway dysfunction. Based upon his examination and the claimant's test results, Dr. Zanetti concluded that there was no objective evidence that the claimant suffered from pulmonary dysfunction and that he did not have any

pulmonary limitations to his activities.

¶ 24 On September 27, 2016, the claimant was again examined by Dr. Everett, who authored a second report in which he noted the claimant's ongoing symptoms. In that report, Dr. Everett opined that a causal relationship between the claimant's coronary artery disease and his employment was purely speculative and that his condition was more likely related to high cholesterol, tobacco use, and possible genetic disposition. Dr. Everett found the claimant to be at MMI from a cardiac standpoint and opined that his shortness of breath was not related to his cardiac condition. When deposed on October 18, 2016, Dr. Everett identified the medical records and test results of the claimant which he had reviewed. He testified that, when he performed both physical and cardiac examinations of the claimant, he found no abnormalities. He stated that he found the claimant's shortness of breath to be due to deconditioning, rather than coronary artery disease, and recommended a stress test. Dr. Everett stated that he was unaware that the claimant had a recent stress test that was negative. He was of the opinion that the claimant's abnormal EKG was suggestive of poor blood flow unrelated to his duties as a firefighter and not heart damage. Dr. Everett offered no opinion regarding the claimant's mild obstructive airway disease. He did opine, however, that the claimant's shortness of breath was not related to his cardiac condition. Dr. Everett opined that the claimant's coronary artery disease was unrelated to his duties as a firefighter, but the cause was unknown. He testified that he did not agree with the passage from a NIOSH report which stated that exposure to fire smoke, including carbon monoxide, hydrogen cyanide, and particulate matter, can cause or contribute to the development of coronary artery disease and that increased heart rates and heavy physical exertion that firefighters are exposed to can also cause or contribute to coronary artery disease. According to Dr. Everett, the claimant was

at MMI for coronary purposes as of May 29, 2015, and was able to return to work. He based that opinion on his review of the claimant's test results. On cross-examination, Dr. Everett admitted that he had not been provided with a description of the claimant's job duties but stated that he was aware of the duties of a firefighter from the many examinations he had performed as an independent medical evaluator (IME). He conceded that firefighting activities were both physically and mentally stressful and that stress can lead to the development of coronary artery disease. He agreed that the claimant had been exposed to heat stress, shift work, and overtime, which could cause or contribute to the development of coronary artery disease. According to Dr. Everett, exposure to fire smoke would not cause acute coronary artery disease, but he did not know whether fire smoke exposure could cause a chronic condition. He revised a prior opinion, stating that he did not know if the stress of the claimant's occupation could lead to cardiac disease. Dr. Everett agreed that the claimant performed firefighting duties that could exacerbate an underlying cardiac lesion but not cause it. He found the treatment rendered to the claimant to be reasonable and necessary.

¶ 25 On October 4, 2016, Dr. Timothy McDonough, board certified in internal medicine, cardiovascular diseases, and interventional cardiology, performed a pension disability examination of the claimant and authored a report relating to that examination. Dr. McDonough noted that, in addition to examining the claimant, he reviewed the medical records of Drs. Tejpal, Joshi, and Ortiz-Carillo. The report states that the claimant had prolonged symptoms and an abnormal EKG which led to coronary angioplasty and the placement of a stent. Dr. McDonough noted the claimant's history of high cholesterol, past smoking, and family history of coronary disease, all typical risk factors for the development of coronary artery disease. He wrote that the claimant's

medical problems "appear related to his coronary risk factors, not to his firefighter service." When deposed on November 18, 2016, Dr. McDonough testified that he both examined the claimant and reviewed his medical records. He noted the claimant's history of high cholesterol, past smoking, and family history of coronary disease. On examination of the claimant, Dr. McDonough found nothing abnormal. He testified that the claimant has coronary artery disease, which led to the stent placement, and that with the stent placement there was no finding of inducible ischemia or other things that would explain the claimant's symptoms beyond the stent placement. He opined that the claimant's shortness of breath was not related to his duties as a fireman. Dr. McDonough stated: "I don't think the science shows that firefighters are at increased particular risk of developing coronary artery disease as a result of fire activities." Although he conceded that the stress of firefighting can trigger a coronary event, he was of the opinion that stressful work did not trigger the claimant's development of coronary artery disease. When cross-examined, Dr. McDonough was asked whether firefighting activities contribute to the development of coronary artery disease, and he stated: "Is it is possible that there could be? Well, yeah, anything is possible. I don't think there is any evidence that there is." He said that the connection could not be ruled out. According to Dr. McDonough, "[t]o the same way that there is no evidence that it [firefighting activity] causes, I don't think there any substantial evidence that it doesn't." Dr. McDonough testified that he had reviewed the NIOSH report that found that coronary artery disease among firefighters is due to a combination of personal and workplace factors, including exposure to fire smoke, carbon monoxide, hydrogen cyanide, and particulate matter. Although he admitted that the NIOSH report was of the sort reasonably relied upon by physicians in the field, he disagreed that the article states that the workplace factors could lead to the development of coronary artery disease. He explained

that the majority of the risk factors enumerated in the NIOSH report are discussed in terms of triggering a heart attack and that only shift work and overtime are noted to have a possible association with the development of coronary artery disease. Dr. McDonough dismissed an article authored by Dr. Stefanos Kales relating to the occupational risks for firefighters as being merely speculative as to the possibility of a firefighter's increased risk of coronary disease. He admitted that he could not say to a reasonable degree of medical certainty that the claimant's age, gender, smoking, history of high cholesterol, past smoking, family history of coronary disease, and firefighting activities caused his coronary artery disease, and agreed that he could not rule out that the claimant's coronary artery disease developed as a result of his firefighting activities.

¶ 26 On October 7, 2016, Dr. Danial Samo performed a pension disability examination of the claimant. In a report of that examination, Dr. Samo noted the claimant's complaints of shortness of breath. He also noted the medical records he reviewed, including the records of Drs. Tejpal, Moisan, Joshi, and Ortiz-Carillo and the records from Palos Community Hospital. According to that report, Dr. Samo's impression was coronary artery disease, status post coronary artery stent, and shortness of breath on exertion, etiology unknown. He found that the claimant was able to return to work, but he would be limited to no heavy exertion. Dr. Samo was deposed on November 9, 2016. He testified that he is board certified in emergency medicine and practices occupational medicine with a special interest in public safety medicine. According to Dr. Samo, his cardiac examination of the claimant did not reveal any significant finding or cardiac abnormalities. His impression was that the claimant had coronary artery disease as documented on his angiogram, a stent, and shortness of breath with no etiology or objective reason. Dr. Samo testified that the claimant's condition was not related to firefighting. When asked if he had an opinion as to whether

or not the claimant's medical condition was related to or the result of his firefighting service, Dr. Samo answered saying: "I don't believe that his [the claimant's] heart disease – his underlying coronary artery disease is related to firefighting. And, again, since I don't know what causes his shortness of breath, I can't answer that, although there is no sign of any asthma, or chronic emphysema, COPD, so I don't know the pulmonary side of it or the shortness of breath." Dr. Samo testified that his opinions were rendered within a reasonable degree of medical and surgical certainty. According to Dr. Samo, the literature is clear that firefighting is not causative of coronary artery disease. When shown a list of articles discussing whether there is an increased incidence of coronary artery disease in firefighters, he stated that the literature shows that there is no increased incidence of coronary artery disease in firefighters. Dr. Samo testified that work as a firefighter can cause an acute event such as a heart attack in a person with underlying coronary artery disease but work as a firefighter cannot cause the underlying coronary artery disease. He stated that coronary artery disease is the development of plaque within the arteries and, if the plaque ruptures and a clot forms, it closes the artery, and the individual will have a heart attack. According to Dr. Samo, firefighters are exposed to triggers which can cause cardiac events in an individual with underlying coronary artery disease, but it cannot cause the underlying disease. When asked whether an abnormal EKG was a cardiac event, he stated: "No. I mean a heart attack, arrhythmia, or death." The claimant did not have a cardiac event. On cross-examination, Dr. Samo admitted that he is neither a pulmonologist nor a cardiologist. He testified that he is familiar with the NIOSH report and has used it in the past to render opinions regarding firefighters. When directed to the portion of the report stating that coronary artery disease among firefighters is due to a combination of personal and workplace factors, Dr. Samo stated that he did not agree, "because coronary artery

disease, not cardiac event, has not been shown to be related to firefighting as a profession, ergo, its workplace." When shown another article which states that line of duty exposures may increase firefighters' risk for cardiovascular disease, Dr. Samo stated that, since that article, the literature has shown that the incidence of cardiovascular disease in firefighters is not increased and "underlying coronary artery disease is not caused by the job." He expounded on the reasons for his belief that firefighting does not cause coronary artery disease.

¶ 27 When deposed, Dr. Moisan testified that he is board certified in internal medicine, occupational medicine, and respiratory diseases. He is not board certified in cardiology. His position with the Village is unpaid. He stated that he performs fitness-for-duty examinations of the Village's firefighters and firefighters working for other departments. Dr. Moisan described the duties of both paramedics and firefighters. He stated that firefighters are exposed to stressors that, on an individual basis, can potentially cause heart disease with the biggest being sudden calls. As to whether the duties of a firefighter can cause or contribute to heart disease, Dr. Moisan testified that it is debatable, explaining that the duties of a firefighter are low risk compared to smoking, hereditary heart disease, cholesterol, diabetes, and hypertension. He testified about his 2015 examination of the claimant at which he identified an abnormal EKG and recommended a cardiovascular examination, which was later performed by Dr. Tejpal. He stated that Dr. Tejpal's examination revealed that the claimant had a coronary artery blockage, and a stent was placed in the artery. Dr. Moisan stated that he reviewed the claimant's treatment in 2015 and 2016 and concluded that, unless the claimant experienced a substantial change in his condition, he could not recommend that the claimant return to duty. When asked whether the claimant's coronary artery disease was caused or contributed to by his firefighting duties, Dr. Moisan stated: "I can't know

that. I can't exclude it." He went on to state: "I can't exclude it as a component." Dr. Moisan opined that "it is more likely than not that there could be contribution of which can't be quantified." When cross-examined, Dr. Moisan testified that the claimant could not return to work due to his shortness of breath, the cause of which has not been identified. It was his opinion that the claimant's shortness of breath is unrelated to coronary artery disease.

¶ 28 At the arbitration hearing, the claimant testified that Dr. Moisan had not released him to return to work and that he applied for a duty disability pension in September of 2016. He stated that he experiences shortness of breath with medium to heavy exertion. The claimant testified that, since July of 2015, he has not sought alternative employment, although he does have a home business making decals. He has not enrolled in a vocational rehabilitation program.

¶ 29 Following the arbitration hearing held on November 28 and 29, 2016, pursuant to section 19(b) of the Act (820 ILCS 305/19(b) (West 2014)), the arbitrator issued a written decision on March 3, 2017, finding that the claimant suffered from coronary artery disease which arose out of and in the course of his employment with the Village, resulting in a causally connected abnormal EKG and the need for the placement of a stent in his heart. The arbitrator denied the claimant temporary total disability benefits, finding that the Village had paid his full salary from June 16, 2015, through April 2016, past the time of his incapacity. In one portion of her decision, the arbitrator found that the Village is liable for payment of the bills for the medical treatment and services rendered to the claimant from January 16, 2015, through June 15, 2015, and granted the Village a credit for all payments it had made for these expenses. In another section of the decision, the arbitrator stated that an award for medical bills is inappropriate because all of the claimant's medicals bills had been submitted and paid by his group medical insurer, Blue Cross Blue Shield.

The arbitrator did, however, order the Village to hold the claimant harmless for any medical expenses paid by his group insurance carrier in the event that it seeks reimbursement. Finally, the arbitrator denied the claimant's request for an award of penalties and attorney fees.

¶ 30 The Village filed a petition for review of the arbitrator's decision before the Illinois Workers' Compensation Commission (Commission). On October 1, 2020, the Commission issued a unanimous decision reversing the arbitrator's decision. The Commission denied the claimant benefits under the Act, finding that he failed to prove that he sustained accidental injuries arising out of and in the course of his employment with the Village. In support of that finding, the Commission stated that it afforded greater weight to the opinions of Drs. Everett, Samo, and McDonough. As to the causation opinion of Dr. Moisan, the Commission found that "it, in fact, supports the opinions of Drs. Samo and McDonough." According to the Commission, none of the three physicians could either rule in or rule out the claimant's duties as a firefighter as a causative factor in his development of coronary artery disease.

¶ 31 The claimant sought a judicial review of the Commission's decision in the circuit court of Cook County. On September 22, 2023, the circuit court entered a written order confirming the Commission's decision, and this appeal followed.

¶ 32 The claimant argues that the Commission erred in finding that he failed to prove a causal connection between his duties as a firefighter and his coronary artery disease. In support of the argument, he contends, *inter alia,* that the Commission failed to properly apply the rebuttable presumption of causation contained in section 6(f) of the Act (820 ILCS 305/6(f) (West 2020)), which provides as follows:

"Any condition or impairment of health of an employee employed as a firefighter,

> emergency medical technician (EMT), emergency medical technician-intermediate (EMT-I), advanced emergency medical technician (A-EMT), or paramedic which results directly or indirectly from any bloodborne pathogen, lung or respiratory disease or condition, heart or vascular disease or condition, hypertension, tuberculosis, or cancer resulting in any disability (temporary, permanent, total, or partial) to the employee shall be rebuttably presumed to arise out of and in the course of the employee's firefighting, EMT, or paramedic employment and, further, shall be rebuttably presumed to be causally connected to the hazards or exposures of the employment." 820 ILCS 305/6(f) (West 2020).

By its clear and unambiguous language, section 6(f) creates a rebuttable presumption of causation between heart disease and the hazards and exposures of firefighting.

¶ 33 The rebuttable presumption created by section 6(f) does not shift the burden of proof. It creates a *prima facie* case as to causation, the effect of which is to shift the burden to the party against whom the presumption operates to introduce evidence to meet the presumption. Once evidence "contrary to the presumption" is introduced, the presumption ceases to operate, and causation is determined based on the evidence adduced as if no presumption ever existed. See *Franciscan Sisters Health Care Corp. v. Dean*, 95 Ill. 2d 452, 461–62 (1983); *Diederich v. Walters*, 65 Ill. 2d 95, 100–01 (1976); *Johnson v. Illinois Workers' Compensation Comm'n*, 2017 IL App (2d) 160010WC, ¶¶ 36, 37. In *Johnson,* this court held that, to rebut the section 6(f) presumption, the employer need only "offer some evidence sufficient to support a finding that something other than the claimant's occupation as a firefighter caused his condition." *Johnson*, 2017 IL App (2d) 160010WC, ¶ 45.

¶ 34 The Village appears to argue that it met its burden to produce evidence necessary to meet the section 6(f) presumption with the expert testimony of Drs. Moisan, Everett, and McDonough, each of whom identified the claimant's personal risk factors associated with the development of coronary artery disease, including high blood pressure, high cholesterol, a prior history of smoking, and a family history of cardiac disorders. According to the Village, "[t]he testifying experts agreed that *** [the claimant] had personal risk factors that increased the likelihood of him developing coronary artery disease. Therefore, the Commission properly found that *** [the Village] had rebutted the presumption under section 6(f)." Standing alone, however, evidence of the claimant's personal risk factors is insufficient to negate the statutory causation presumption.

¶ 35 In order to rebut the presumption, the Village was required to produce evidence "contrary to the presumption." *Franciscan Sisters Health Care Corp.*, 95 Ill. 2d at 461. That is to say, the Village was required to produce evidence that the claimant's coronary artery disease was not causally connected to his duties as a firefighter, not merely that his personal risk factors may have also been a cause. In *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 205 (2003), the supreme court held that, in order to support benefits under the Act, an employment related injury need not be the sole cause of an employee's condition of ill-being, nor even the primary causative factor, "as long as it was a causative factor in the resulting condition of ill-being." The fact that the claimant had personal risks that increased the likelihood of his developing coronary artery disease does not, standing alone, negate the presumption that his coronary artery disease is causally connected to the hazards or exposures of his employment as a firefighter.

¶ 36 According to the Commission, Drs. Moisan, Evertt, Samo, and McDonough each testified that they could neither rule in nor rule out the claimant's duties as a fireman as a causative factor

in his development of coronary artery disease. The observation is true as to Drs. Moisan, Everett and McDonough. It is not true as to Dr. Samo. Contrary to the Commission's assertion, Dr. Samo did render a causation opinion. In two pages of its decision, the Commission set forth Dr. Samo's deposition testimony in detail, including his opinion that the claimant's underlying coronary artery disease is not related to his work as a firefighter. Dr Samo gave his reasons for that opinion and never retreated from it.

¶ 37 The only other physician to examine the claimant and render a medical opinion was Dr. Zanetti, a pulmonologist. He opined only that there was no objective evidence that the claimant suffered from pulmonary dysfunction and that the claimant had no pulmonary limitations on his activities. Dr. Zanetti expressed no opinion as to whether there was a causative relationship between the claimant's coronary artery disease and his duties as a firefighter.

¶ 38 In this case, the claimant seeks recovery under the Act for coronary artery disease, which he asserts is causally related to his service as a fireman. In support of his claim, the claimant relied upon the rebuttable presumption contained in section 6(f) of the Act to establish that his coronary artery disease is causally connected to the hazards or exposures of his employment as a firefighter. In the face of that presumption, the Village had the burden to produce contrary evidence supporting the proposition that the claimant's coronary artery disease is not causally related to his duties as a firefighter. See *Franciscan Sisters Health Care Corp.*, 95 Ill. 2d at 461–62. The Village satisfied its burden of production with the opinion of Dr. Samo that the claimant's underlying coronary artery disease is not related to his work as a firefighter. With that contrary evidence, the section 6(f) presumption vanished (see *Franciscan Sisters Health Care Corp.*, 95 Ill. 2d at 462), and the issue of causation was to be decided based on the evidence presented as if the presumption never

existed. *Johnson,* 2017 IL App (2d) 160010WC, ¶ 37.

¶ 39 It was the claimant's burden to establish that his coronary artery disease arose out of and in the course of his employment as a firefighter. See *Land & Lakes Co. v. Industrial Comm'n*, 359 Ill. App. 3d 582, 591–92 (2005). The claimant argues that he satisfied that burden with the opinions of Drs. Moisan and Everett. He asserts that both physicians opined that his coronary artery disease is causally related to his firefighting activities. We believe that the claimant's reliance on the testimony of these two physicians is misplaced. It is true that Dr. Moisan testified that it is more likely than not that there "could be contribution" from the claimant's duties as a firefighter to his coronary artery disease. But when asked directly whether the claimant's coronary artery disease was caused or contributed to by his firefighting duties, Dr. Moisan stated: "I can't know that. I can't exclude it." Dr. Everett's first report states that it is unlikely that the claimant's coronary artery disease was related to his occupation. In his second report, Dr. Everett opined that a causal relationship between the claimant's coronary artery disease and his employment is purely speculative. When deposed, he conceded that firefighting activities were both physically and mentally stressful and that stress can lead to the development of coronary disease and agreed that exposure to heat stress, shift work, and overtime could cause or contribute to coronary artery disease. Dr. Everett also testified that he did not know if the stress of the claimant's occupation could lead to cardiac disease. He stated that the firefighting duties performed by the claimant could exacerbate an underlying cardiac lesion but not cause it.

¶ 40 The opinions of Drs. Moisan and Everett on the issue of causation were at best equivocal and at worst internally contradictory. Dr. Samo's opinion, however, was unequivocal; the duties of a firefighter cannot cause coronary artery disease. It was the function of the Commission to

resolve conflicts in the evidence, including medical testimony; assess the credibility of the witnesses; assign weight to the evidence; and draw reasonable inferences from the evidence. *ABBF Freight System v. Illinois Workers' Compensation Commission*, 2015 IL App (1st) 141306WC, ¶ 19. The Commission particularly referenced the equivocal portions of the deposition testimony of Drs. Moisan and Everett and the unequivocal passage from Dr. Samo's deposition.

¶ 41 The claimant argues that Dr. Moisan's testimony that the claimant's firefighting activities contributed in part to his development of coronary artery disease is a judicial admission by the Village based on Dr. Moisan's position as medical director for the Village's fire department. We disagree. To constitute a judicial admission, the party's testimony taken as a whole must be unequivocal. *Dunning v. Dynegy Midwest Generation, Inc.*, 2015 IL App (5th) 140168, ¶ 50. As noted earlier, Dr. Moisan's causation opinion is hardly unequivocal. When asked directly whether the claimant's coronary artery disease was caused or contributed to by his firefighting duties, Dr. Moisan stated: "I can't know that. I can't exclude it."

¶ 42 The claimant also argues that the Commission abused its discretion by allowing the Village to introduce the testimony of four "professional witnesses." According to the claimant, the testimony was cumulative, and the Commission should have barred the testimony of Drs. Samo and McDonough. Again, we disagree. The admission of evidence rests with the sound discretion of the Commission, and its decision on the issue may only be disturbed on review when that discretion is abused. *National Wrecking Co. v. Industrial Comm'n*, 352 Ill. App. 3d 561, 566 (2004). The Commission abuses its discretion when no reasonable person would agree with its action. *Certified Testing v. Industrial Comm'n*, 367 Ill. App. 3d 938, 947 (2006). The "four professional witnesses" referred to by the claimant were Drs. Everett, Zanetti, Samo, and

McDonald. Several of the doctors practiced in different specialties, and their testimony was clearly relevant as each had examined the claimant. We find no abuse of discretion in the admission of their testimony.

¶ 43 Whether a causal relationship exists between a claimant's employment and his injury is a question of fact to be resolved by the Commission, and its resolution of the issue will not be disturbed on review unless it is against the manifest weight of the evidence. *Certi-Serve, Inc. v. Industrial Comm'n*, 101 Ill. 2d 236, 244 (1984). For the Commission's resolution of a fact question to be contrary to the manifest weight of the evidence, an opposite conclusion must be clearly apparent. *Tolbert v. Illinois Workers' Compensation Comm'n*, 2014 IL App (4th) 130523WC, ¶ 39. Whether a reviewing court might reach the same conclusion is not the test of whether the Commission's determination of a question of fact is supported by the manifest weight of the evidence. Rather, the appropriate test is whether there is sufficient evidence in the record to support the Commission's determination. *Benson v. Industrial Comm'n*, 91 Ill. 2d 445, 450 (1982).

¶ 44 The Commission found that the claimant failed to prove that his development of coronary artery disease arose out of and in the course of his employment as a firefighter and set forth the evidence it relied upon in reaching that conclusion. Based on the record before us, we cannot conclude that the Commission's decision is against the manifest weight of the evidence.

¶ 45 For the reasons stated, we affirm the order of the circuit court which confirmed the decision of the Commission.

¶ 46 Affirmed.