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2025 IL App (4th) 241191WC-U

Order filed

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IN THE  
APPELLATE COURT OF ILLINOIS  
FOURTH DISTRICT

**FILED**  
September 30, 2025  
Carla Bender  
4<sup>th</sup> District Appellate  
Court, IL

WORKERS' COMPENSATION COMMISSION DIVISION

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TODD A. FRALEY,	)	Appeal from the Circuit Court
	)	of Ogle County, Illinois
	)	
Appellant,	)	
	)	
v.	)	Appeal No. 4-24-1191WC
	)	Circuit No. 23 MR 42
	)	
ILLINOIS WORKERS' COMPENSATION	)	Honorable
COMMISSION, <i>et al.</i> , (E.D. Etnyre & Co.,	)	Anthony W. Peska,
Appellees.)	)	Judge, Presiding.

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

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**ORDER**

¶ 1 (1) The Commission's denial of the claimant's petition for increased disability benefits relating to his initial work-related injury was not against the manifest weight of the evidence; and (2) the Commission's reduction of the arbitrator's award of additional permanent partial disability benefits for the claimant's second work accident was not against the manifest weight of the evidence.

¶ 2 The claimant, Todd A. Fraley, filed an application for adjustment of claim under the Illinois Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2012)), seeking benefits for injuries to his left knee that he sustained on April 2, 2012, while he was employed by respondent E.D. Etnyre & Co. (employer). A hearing on the claimant's claim was conducted before an arbitrator on March 17, 2016. On May 3, 2016, the arbitrator found that the claimant had sustained an accidental injury arising out of and in the course of his employment and that his current condition of ill-being was casually related to the work accident. The arbitrator further found that the claimant had sustained a 30% loss of use of his left leg as a result of the accident, and awarded the claimant permanent partial disability (PPD) benefits pursuant to section 8(e)(12) of the Act (820 ILCS 305/8(e)(12) (West 2012)). Neither party appealed the arbitrator's decision, which became final on May 23, 2016.

¶ 3 On September 20, 2017, the claimant filed a petition under section 19(h) of the Act (820 ILCS 19(h) (West 2016)) seeking a modification of his permanency award due to an alleged increase in his disability. He also filed a petition under section 8(a) of the Act (820 ILCS 305/8(a) (West 2016)) seeking payment for additional medical treatment allegedly related to his work injury.

¶ 4 While those petitions were pending, the claimant filed a second application for adjustment of claim seeking benefits for another injury to his left knee that he sustained on January 25, 2018, while working for the employer. The Commissioner assigned to hear the 19(h) and 8(a) petitions held them in abeyance until an arbitrator had decided the claimant's claim regarding the January 25, 2018, knee injury.

¶ 5 On August 30, 2022, an arbitrator found that the claimant's January 25, 2018, knee injury arose out of and in the course of the claimant's employment and caused an additional 12.5% loss

of use of the claimant's left leg. The arbitrator awarded the claimant additional PPD benefits pursuant to section 8(e) as compensation for this increase in the claimant's disability.

¶ 6 The employer appealed the arbitrator's decision to the Illinois Workers' Compensation Commission (the Commission). The employer's appeal was consolidated with the claimant's 19(h) and 8(a) petitions for argument before the Commission.

¶ 7 On February 7, 2023, Commissioner Doerries heard evidence regarding the claimants 19(h) and 8(a) petitions. On October 16, 2023 the Commission issued a decision denying the claimant's 19(h) petition, finding that the claimant had failed to prove that there was a material change in his condition since the arbitrator's May 3, 2016, decision that can be related to his 2012 work injury. The Commission did not rule on the claimant's 8(a) petition because the parties stipulated that the employer had paid all reasonable medical expenses relating to the April 2, 2012, work injury and all lost time benefits owing to the claimant at that time.

¶ 8 In the employer's appeal, the Commission issued a separate decision affirming the arbitrator's decision regarding the claimant's January 25, 2018, injury in part and modifying the decision in part. The Commission affirmed the arbitrator's findings that the claimant had sustained a work-related injury on January 25, 2018, that increased the disability in his left leg. However, the Commission found that the increase amounted to an additional 3% loss of use of the claimant's left leg, rather than an additional 12.5%, as the arbitrator had concluded. The Commission reduced the arbitrator's PPD award accordingly.

¶ 9 The claimant appealed both of the Commission's decisions to the circuit court of Ogle County, which confirmed the Commission's decisions.

¶ 10 This appeal followed.

## **BACKGROUND**

¶ 11 On April 2, 2012, the claimant injured his left knee at work while trying to push a metal shaft. He felt a pop in his left knee followed by immediate, intense pain that caused him to pass out. He was taken by ambulance to the emergency room at Swedish American Hospital in Rockford, Illinois. X-rays revealed a fracture along the inferior aspect of the patella with some mild boney displacement. He was referred to Rockford Orthopedic Associates (ROA) for further evaluation and treatment.

¶ 12 On April 3, 2012, the claimant saw Dr. Robin Borchardt at ROA. Dr. Borchardt requested an x-ray and MRI of the left knee. Dr. Borchardt diagnosed joint pain in the lower leg, a closed fracture of the patella, and a rupture of the patella tendon. He referred the claimant to Dr. Jon Whitehurst, an orthopedic surgeon. Dr. Whitehurst diagnosed a rupture of the patella tendon, dislocation of the patella (closed), and a medial meniscus tear.

¶ 13 On April 19, 2012, Dr. Whitehurst performed surgery on the claimant's left knee. During surgery, Dr. Whitehurst noted a complex tear of the lateral meniscus and a partial tear of the medial meniscus. He removed multiple loose bodies and debrided the patellar condyle fragmentation. Dr. Whitehurst also performed an open reduction and internal fixation on the claimant's fractured patella, reattached the patellar tendon, and performed a retinacular repair.

¶ 14 On January 23, 2013, Dr. Borchardt released the claimant from care. At that time, the claimant reported that his pain level was 3 out of 10 at rest, and 7 out of 10 with activity. He still noted popping and clicking in the knee joint. Dr. Borchardt determined that this was caused by chondromalacia of the patella (*i.e.*, damage to the cartilage under the kneecap).

¶ 15 At the employer's request, the claimant was examined by Dr. Stephen Weiss, an orthopedic surgeon who performed an American Medical Association (AMA) impairment rating.

Dr. Weiss noted that the claimant had an antalgic gait on the left side, but full range of motion in both knees. There was mild effusion in the left knee, with swelling and edema of the anterior medial and anterior lateral joint lines. The claimant had 7/8 of an inch of atrophy of the left thigh and almost 3/4 of an inch of swelling of the left patella. Dr. Weiss further noted that “the subcutaneous palpable interior surface of the patella measures 2 inches on the right and 2 3/4 inches on the left, possibly consistent with post traumatic ossification.”

¶ 16 At the March 17, 2016, arbitration hearing, the claimant testified that he still had significant pain in the left knee, especially when performing work activities. The longer he was on his feet, the more painful the condition became. The claimant stated that he walked with a limp, which worsened with extended standing and walking. The claimant did not take any prescription medications. He took Ibuprofen two to three times per month to reduce the pain and swelling. When asked if he had changed the way he performs his job, the claimant responded that he got help with heavy lifting.

¶ 17 On April 18, 2017, the claimant returned to Dr. Borchardt with left knee pain. He had not had any treatment to the knee since January 23, 2013. Dr. Borchardt examined the knee and noted moderate effusion. He also noted tenderness over the patella and the patellar tendon. An MRI performed on April 28, 2017, showed minimal tendinopathy at the quadriceps tendon insertion and chronic appearing healed partial tearing of the patellar tendon. A defect of the medial meniscus had enlarged and was now 2 cm in size, consistent with an oblique tear of the posterior horn of the medial meniscus. Dr. Borchardt recommended a repeat arthroscopy of the knee.

¶ 18 The employer sent the claimant to Dr. Weiss for a Section 12 examination on June 7, 2017. Dr. Weiss opined that that the claimant’s condition was related to the original work injury

of April 2, 2012. He agreed with Dr. Borchardt's surgical recommendation.

¶ 19 On August 22, 2017, Dr. Whitehurst performed arthroscopic surgery on the claimant's left knee. After the surgery, the claimant was taken off work until October 10, 2017. He received physical therapy from September 20, 2017, through December 19, 2017.

¶ 20 On October 30, 2017, the claimant reported to Dr. Whitehurst that he was doing well, and his pain was 0 out of 10 at rest and 2 out of 10 with activity.

¶ 21 On November 29, 2017, the claimant returned to Dr. Borchardt for a follow-up examination. The claimant reported that he had no pain at rest or with activity. He denied experiencing any reduced range of motion or limitations with walking or standing. He was able to work with restrictions. Upon examination, Dr. Borchardt noted that claimant's gait was normal, and there was no effusion, tenderness, or loss of strength. The examination did not reveal any injury or limitations. Dr. Borchardt commented that the claimant had made "significant improvement with therapy."

¶ 22 On December 19, 2017, the claimant reported to his physical therapist that his current pain level was 0 out of 10. The therapist opined that the claimant had made "great progress." The claimant was able to kneel for five repetitions and crawl on the carpet for 10 feet without difficulty at the clinic. The physical therapist concluded that the claimant had met all his short- and long-term physical therapy goals and discharged him from physical therapy.

¶ 23 The following day, the claimant returned to Dr. Borchardt for a follow-up examination. He reported that his pain level was 0 out of 10, both at rest and with activity. The claimant had no numbness or tingling and did not experience any symptoms or limitations during the examination performed that day. In his notes for that visit, Dr. Borchardt opined that the claimant was doing well with no pain, and had met all his goals in physical therapy. Dr. Borchardt

concluded that the claimant was at maximum medical improvement (MMI) and released him from care with no restrictions.

¶ 24 On January 25, 2018, the claimant re-injured his left knee at work when he stepped on a piece of cable and his knee “buckled.” His knee did not twist or come into contact with anything during the accident, and the claimant did not hear any popping in the knee. The claimant testified that he felt extreme pain and it was difficult to walk after the accident.

¶ 25 The day after the accident, the claimant returned to Dr. Borchardt for further treatment. Dr. Borchardt examined the claimant’s knee and prescribed medications, activity modification, and a hinged knee brace. An MRI of the claimant’s left knee was performed on February 14, 2018. The MRI showed new moderate bone marrow edema in the anterior aspect of the tibia. The MRI report indicated that this “might be related to a direct contusion but no macrofracture is identified.” The MRI showed no meniscal tear. It revealed stable postoperative changes of the extensor mechanism with chronic stable tendinopathy of the patellar tendon, and stable cartilage irregularities which include grade 3 chondromalacia in the anterior compartment of the knee joint. Dr. Borchardt prescribed Tramadol and told the claimant to return in approximately four weeks.

¶ 26 On March 16, 2018, Dr. Borchardt re-examined the claimant and told him to increase his activities but continue to use the brace. On April 13, 2018, the claimant returned to Dr. Borchardt complaining of continued knee pain that limited his activities. Dr. Borchardt prescribed a second MRI, which was performed on May 7, 2018. The MRI showed: 1) stable appearance of the medial meniscus status post partial medial meniscectomy with residual tear but no new or unstable tear; 2) bone marrow edema in the anterior midline tibia versus bony fibrovascular action, unchanged to slightly improved; 3) moderate stable patellofemoral osteoarthropathy; and

4) post-surgical change involving the quadriceps and patellar tendons, stable.

¶ 27 The claimant returned to Dr. Borchardt on July 26, 2018. Dr. Borchardt noted that the claimant reported experiencing pain at a level of 4 out of 10 with activity, and 2 out of 10 at rest. The claimant said that the symptoms were worse with prolonged walking and kneeling. Dr. Borchardt's examination revealed a normal gait, no swelling or effusion, full flexion and extension, and patellar tracking within normal limit. The claimant had tenderness in the medial joint line and the tibial tubercle trace, but no tenderness in the patellar tendon, the superior and inferior poles of the patella, the lateral joint line, the MCL, and the LCL (among other areas). Dr. Borchardt prescribed Tramadol and continued use of the brace. He released the claimant from his care at that time. The claimant sought no further treatment for his left knee.

¶ 28 At his counsel's request, the claimant was evaluated by Dr. Steven Chudik on May 17, 2021. Dr. Chudik took a complete history from the claimant from the time of the claimant's initial left knee injury on April 2, 2012. He reviewed the claimant's treatment records from 2012 through May 7, 2018, and Dr. Weiss's IME reports of May 12, 2014, and June 7, 2017. Dr. Chudik opined that: (1) the claimant's need for surgeries on April 19, 2012, and August 22, 2017, and his current left knee condition were the direct result of the work-related injury the claimant sustained on April 2, 2012; (2) the claimant continued to suffer from left knee pain and limitations related to post-traumatic arthritis resulting from the April 2, 2012, work injury and the related surgeries; (3) the claimant sustained a second work-related left knee injury on January 25, 2018, as evidenced by the onset of new and worsening left knee symptoms consistent with the new traumatic bone contusion shown in the February 14, 2018, left knee MRI; (4) the January 25, 2018, injury further aggravated the claimant's left knee pain and limitations and contributed to the progression of his left knee post-traumatic condition; and (5) the claimant had



developed symptomatic post-traumatic arthritis because of both of his work-related injuries. Dr. Chudik concluded that the claimant had experienced an increase in disability since the March 17, 2016, arbitration, as evidenced by changes in both the claimant's subjective symptoms and the objective findings on x-ray since that time.

¶ 29 During the hearing on the claimant's 8(a) and 19(h) petitions, the claimant testified that he has never been pain free since the first surgery on April 19, 2012. He stated that he had ongoing pain and swelling, walked with a limp, and had difficulty with stairs. He did not recall telling the physical therapist that he was having pain at a level of 0 out of 10. However, he conceded on cross-examination that, if that was in his records, he would have no reason to disagree with that. He stated that he would honestly report his subjective complaints to the physical therapist during each visit. He further testified that, if his doctor released him to work full duty and he was not capable of performing his job duties, he would have informed the doctor and requested a work restriction form. He acknowledged that, after he was released to work full duty, he never told his doctors that he was limited or unable to perform his job.

¶ 30 When asked how to reconcile his testimony that he was never "pain free" with the numerous medical entries in 2017 indicating he had no pain at rest or with activity, the claimant responded, "[yes], I have told them that I was pain-free which in my opinion was any new pain as far as--it's never been pain-free \*\*\* But when I was talking to them and they asked me if it was pain-free, and I would always tell them that there is no more pain than what I would normally have." The claimant elaborated by claiming that, when he uses the term "pain-free," he means "no *new* pain," *i.e.*, "back to the original pain [he] had going."

¶ 31 On cross-examination, the claimant was asked whether his pain was worse or better in November and December of 2017 in comparison to January 2013 (when he was discharged from

care following the first work accident). He responded "I don't believe I was worse. I sure definitely wasn't better." When asked to clarify, the claimant responded, "I would say-- I don't know I'd say it's worse. I'm just saying it never got any better." When asked whether it was the same, the claimant responded, "I would say yes as far as -yes as far as pain."

¶ 32 The claimant further testified that he has not sought any treatment for knee pain since Dr. Borchardt discharged him from care in July 2018. The claimant agreed that, if he were unable to function, he could return for further treatment. He stated that he has chosen not to do so since July 2018. He was not aware of any future treatment recommendations made by Dr. Chudik.

¶ 33 During the arbitration hearing on the January 25, 2018, work accident, the claimant testified that he was in constant agony at work. He stated that going up and down stairs was terrible, especially when he had to put weight on the left knee. He walked with a limp, had swelling, and had lost strength in the knee. He previously drove a semi-truck with a manual transmission at work, but has stopped doing so because he cannot push the clutch pedal more than twice. He would still wear the brace at least once a week and while performing certain activities.

¶ 34 When asked how his left knee was different at the time of the arbitration hearing than it was in 2017, he responded that it was "getting worse \*\*\* daily, it is hurting more." He stated that there was a lot of grinding in the knee when he performed everyday activities, such as crawling, sitting down, standing up, and continuously moving the knee. If he sits too long or tried to straighten the knee, it will pop. He further testified that "the strength isn't there anymore," and he is no longer able to push in a clutch in a vehicle.

¶ 35 During cross-examination, the claimant stated that he would truthfully tell the doctor or nurse all the issues he was having during each office visit. For instance, he would inform the

doctor if he was having pain, popping or clicking, as well as issues with strength or weakness.

¶ 36 When asked how his knee was doing when he last treated with Dr. Borchardt on December 20, 2017, approximately one month before the January 25, 2018, incident, the claimant responded, “[t]here was swelling \*\*\* There was some slight pain but nothing I couldn't manage, you know, it was very minimal, I felt I was doing great. You know, there was really no problems with it.”

¶ 37 Although the claimant testified on direct examination that he was in “severe” pain following the January 25, 2018, accident, he acknowledged on cross-examination that Dr. Borchardt’s medical record generated on the day following the accident indicated that the claimant had reported pain at a level of 2 out of 10, which the claimant did not consider severe. The medical records further indicated that the claimant walked normally, which the claimant admitted would not include walking with a limp.

¶ 38 The claimant further admitted that, approximately one and a half to two weeks after the January 25, 2018, accident, he contacted Ortholllinois and asked if he could be released to work without restrictions and be allowed to work overtime. He acknowledged that his job was a moderate to heavy duty position at that time. The claimant further confirmed that he did not miss any work or undergo any physical therapy, injections, or surgeries from the date of the accident until he was released from care in July of 2018. Moreover, he conceded that the brace he was given following the January 25, 2018, accident was similar to the two braces he was given before the January 25, 2018, incident.

¶ 39 The claimant acknowledged that, when he was discharged from care in July 2018, his physician told him to return if any new problems arose. He admitted that he has not returned for treatment with any physician in more than four years. He confirmed that, at the time of the

arbitration hearing, he was under no restrictions by any physician, nor does he have any future surgery scheduled for the claimed work injury.

¶ 40 The Commission found that the claimant had failed to prove a material increase in his disability that can be related to the claimant's initial April 2, 2012, work injury. It therefore denied the claimant's 19(h) petition.

¶ 41 In support of its ruling, the Commission relied in part on the physical therapy records and on Dr. Borchardt's December 2017 discharge note, which it found to be more credible than the claimant's testimony. The Commission noted that the physical therapy records confirm that the claimant was able to meet the physical demands of his job in December 2017. The physical therapist's assessment stated that the claimant had "made great progress with his rehab" and was "pain-free 100% of the day." The Commission found the claimant's testimony that he was still in pain at that time not to be credible.

¶ 42 The Commission concluded that the claimant's left knee was better after the 2017 surgery and recovery than it was at the time of the March 2016 arbitration hearing. The Commission based this conclusion, in part, on the physical therapy discharge notes and Dr. Borchardt's December 2017 discharge note. The Commission noted that the December 19, 2017, physical therapy discharge notes document that the claimant had rated his pain to be at a level of 0 out of 10. Dr. Borchardt's December 2017 discharge notes indicate that the claimant had no pain complaints, no swelling, and a normal gait. By contrast, Dr. Borchardt's 2013 discharge notes indicated that the claimant was reporting ongoing pain, swelling, popping and clicking at that time. Moreover, Dr. Weiss's 2014 records reflect that the claimant had mild effusion in his left knee, swelling in the left patella, and he was unable to kneel at that time.

¶ 43 The Commission accorded significant weight to the claimant's concession that he was

doing better in November and December of 2017 than when he was discharged from care in 2013. The claimant explicitly stated that he did not believe he was worse in November and December of 2017 than he was when he was discharged in 2013. He said that his pain was the same, not worse. The Commission found that the claimant's complaints at the time of the 19(h) hearing were the same or similar to those that he had at the time of the 2016 Arbitration hearing.

¶ 44 Further, the Commission did not find Dr. Chudnik's report to be persuasive. It noted that Dr. Chudnik opined that the claimant developed post-traumatic arthritis and ongoing symptoms as a result of the April 2, 2012, work accident and subsequent surgeries. However, Dr. Chudnik also opined that the claimant's January 25, 2018, work injury and bone contusion further aggravated the claimant's left knee pain and functional limitations and contributed to the progression of his post-traumatic arthritic condition. The Commission found that Dr. Chudnik's report "lacks clarity as to which of [the claimant's] current complaints can be ascribed solely to the 2012 accident."

¶ 45 The Commission issued a separate order affirming and adopting the arbitrator's decision regarding the claimant's January 25, 2018, injury in part and modifying it in part. The Commission affirmed the arbitrator's findings that the claimant had sustained a work-related injury on January 25, 2018, that increased the disability in the claimant's left leg. However, the Commission found that the increase amounted to an additional 3% loss of use of the claimant's left leg, rather than the additional 12.5% the arbitrator had concluded. The Commission reduced the arbitrator's PPD award accordingly.

¶ 46 In reaching its decision regarding the level of the claimant's PPD, the Commission considered and weighed each of the factors it was required to consider under section 8.1(b) of the Act (820 ILCS 305/8.1(b) (West 2022)). Applying those factors, the Commission concluded that

the evidence supported an additional PPD award of 3% as a consequence of the January 25, 2018, accident because: (1) the claimant lost no work time and was released to work his moderate to heavy duty job without restrictions; (2) the claimant was 44 years old at the time of the injury, and therefore had a significant work life remaining until retirement; and (3) the medical records corroborated a finding that the January 25, 2018, work injury had increased the disability in the claimant's left leg by 3%.

¶ 47 In support of the latter finding, the Commission noted that two MRIs confirmed left leg bone marrow edema in the anterior midline tibia as the result of the January 25, 2018, work accident. Moreover, the claimant reported to Dr. Borchardt that he suffered constant, agonizing pain after the accident, and Dr. Chudnik also noted that the claimant had reported ongoing pain after the accident. Further, Dr. Chudnik opined that the January 25, 2018, work accident and the resulting bone contusion in the claimant's left leg aggravated the preexisting post-traumatic condition in the claimant's left knee. However, the Commission noted that Dr. Chudnik did not designate which left knee pain complaints were specific to the bone contusion.

¶ 48 The Commission further noted that the claimant's medical records confirm that he lost no time from work as a result of the January 25, 2018, work accident, and he did not receive any therapy, injections, or surgery. He was treated with conservative care in the form of medications, a knee brace, and activity modification for one week until February 1, 2018, when the claimant requested to be released to return to work full duty.

¶ 49 The claimant appealed both of the Commission's orders to the circuit court of Ogle County, which confirmed the Commission's decisions.

¶ 50 This appeal followed.

## ANALYSIS

¶ 51 1. The Claimant's 19(h) Petition

¶ 52 The claimant argues that the Commission erred in dismissing his petition under section 19(b) of the Act. He maintains that the Commission's finding that he failed to prove a material increase in the disability resulting from his April 12, 2012, work injury was against the manifest weight of the evidence.

¶ 53 In a section 19(h) proceeding, the issue is whether the employee's disability has recurred, increased, diminished, or ended since the award. *Howard v. Industrial Comm'n*, 81 Ill. 2d 50, 59 (1980). The evidence presented in prior proceedings is relevant in determining whether the employee's condition at the time of the award has changed. *Id.* at 60. To warrant a modification in benefits, the change in condition must be material. *Motor Wheel Corp. v. Industrial Comm'n*, 75 Ill. 2d 230, 236 (1979).

¶ 54 Whether a claimant's disability has materially changed for purposes of section 19(h) presents is a question of fact to be resolved by the Commission. *Howard*, 89 Ill. 2d at 430. In resolving questions of fact, it is the function of the Commission to assess the credibility of witnesses, resolve conflicts in the evidence, assign weight to be accorded the evidence, and draw reasonable inferences from the evidence. *Hosteny v. Illinois Workers' Compensation Comm'n*, 397 Ill. App. 3d 665, 674 (2009). We will not overturn a factual determination of the Commission unless it is against the manifest weight of the evidence. *Id.* A factual finding is against the manifest weight of the evidence only when an opposite conclusion is clearly apparent—that is, when no rational trier of fact could have agreed with the agency. *Durand v. Industrial Comm'n*, 224 Ill. 2d 53, 64 (2006). A reviewing court will not reweigh the evidence or reject reasonable inferences drawn by the Commission simply because other reasonable

inferences could have been drawn. *Id.*

¶ 55 There is ample evidence supporting the Commission’s finding that the disability in the claimant’s left knee did not materially increase from the date of the 2016 arbitration hearing to the date of the section 19(h) hearing in 2023. The physical therapy records and other medical records show that, although the claimant’s left knee condition worsened until the second surgery was performed on August 22, 2017, it improved substantially thereafter. On October 30, 2017, the claimant reported to Dr. Whitehurst that he was doing well, and his pain level was 0 out of 10 at rest and 2 out of 10 with activity. On November 29, 2017, the claimant told Dr. Borchardt that he had no pain at all, either at rest or with activity. He denied experiencing any limitations with walking or standing, and he was able to work with restrictions. Dr. Borchardt noted that claimant's gait was normal, and there was no tenderness, loss of strength, injury, or limitations. He commented that the claimant had made “significant improvement with therapy.”

¶ 56 On December 19, 2017, the claimant told his physical therapist that he had no pain. He was able to kneel for five repetitions and crawl on the carpet for 10 feet without difficulty at the clinic. The therapist discharged the claimant from physical therapy, concluding that the claimant had made "great progress" and had met all his short- and long-term physical therapy goals.

¶ 57 The following day, the claimant returned to Dr. Borchardt for a follow-up examination. He reported that his pain level was still 0 out of 10. The claimant had no numbness or tingling and did not experience any symptoms or limitations during the examination performed that day. Dr. Borchardt concluded that the claimant was at maximum medical improvement (MMI) and released him from care with no restrictions.

¶ 58 In addition, the claimant repeatedly admitted during cross-examination that his knee condition one month prior to the January 25, 2018, work accident was not worse than it was in



January 2013, when when he was discharged from care after the first work accident. Indeed, he stated that he was “doing great” on December 20, 2017. He also conceded that the condition of his left knee was the same at the time of the March 2016 arbitration hearing as it was after the first accident. Thus, the claimant essentially acknowledged that there was no material increase in his disability from the time of the March 2016 arbitration until his second work accident on January 25, 2018.

¶ 59 As noted above, the medical records corroborate the claimant’s admissions. Indeed, they show that the claimant’s left knee condition had substantially *improved* by December 20, 2017, both subjectively and objectively. By that date, which was approximately one month before the second work accident, the claimant was experiencing virtually no pain or limitations, and he was released to work without restrictions.

¶ 60 During the 19(h) hearing, the claimant testified that, when he told the physical therapist and Dr. Borchardt that he was “pain free” in November and December of 2019, he meant that he was not experiencing any “new pain,” not that he was experiencing “no pain.” The Commission correctly found this claim to be completely lacking in credibility because it contradicted both the medical records and the plain, ordinary meaning of the term “pain free.”

¶ 61 Although Dr. Chudnik opined that the claimant’s disability had worsened since the time of the 2016 arbitration hearing, the Commission was not required to credit his opinion. It is the Commission’s province to weigh the evidence and resolve conflicts in the evidence. *Hosteny*, 397 Ill. App. 3d at 674. The Commission is entitled to accord little or no weight to an expert opinion, even if it is the only expert opinion presented in the case. *Continental Tire of Americas v. Illinois Workers’ Compensation Comm’n*, 2015 IL App (5th) 140445WC. In this case, the Commission accorded little weight to Dr. Chudnik’s opinion because it found that Dr. Chudnik

had failed to specify which work accident was responsible for the increase in the claimant's post-traumatic arthritis. Moreover, Dr. Chudnik's prediction that the claimant would require conservative care and would eventually need a total knee replacement has not come to pass. By his own admission, the claimant sought no treatment for his knee after was discharged from care in July of 2018. At the time of the 19(h) hearing, he was under no medical restrictions and had no medical treatments scheduled for the future. Accordingly, we cannot say that the Commission's decision to place little weight on Dr. Chudnik's conclusions and predictions was against the manifest weight of the evidence.

¶ 62 The claimant argues that the Commission improperly relied almost entirely on his reports of pain to the physical therapist in 2017, rather than his functional limitations at the time of the arbitration hearing in 2023. That is incorrect. The Commission relied extensively on medical evidence of the claimant's functional abilities during the relevant time periods, including Dr. Borchardt's examination findings in November and December of 2017.

¶ 63 Moreover, the claimant's symptoms and functional limitations after the July 25, 2018, work accident were the subject of a separate arbitration proceeding and were not relevant to the 19(h) hearing. The 19(h) hearing addressed whether the disability caused by the *initial* work injury had materially increased from the time of the March 2016 arbitration proceeding addressing that injury until the time of the 19(h) hearing. The disability caused by the second work injury (if any) was the subject of the second arbitration proceeding.

¶ 64 The claimant further argues that the record before the Commission in the 19(h) hearing was incomplete because there was no transcript prepared of the March 16, 2016, arbitration hearing. Thus, the claimant maintains, there was no way for the Commission to adequately compare the claimant's current condition with his condition at the time of the March 2016

hearing. We disagree. The claimant's medical records for all relevant time periods were in evidence, and the claimant testified during the 19(h) hearing about his left knee condition at the time of the March 2016 arbitration hearing. Thus, the Commission had sufficient evidence to make the required comparison.

¶ 65 2. The Commission's Reduction of PPD

¶ 66 In the other case before the Commission, the claimant argues that the Commission erred by reducing the arbitrator's award of additional PPD benefits in compensation for the claimant's January 25, 2018, work accident.

¶ 67 The extent or permanency of a claimant's disability is a question of fact to be determined by the Commission, and its decision will not be set aside unless contrary to the manifest weight of the evidence. *Pietrzak v. Industrial Comm'n*, 329 Ill. App. 3d 828, 833 (2002). A factual finding is against the manifest weight of the evidence only when an opposite conclusion is clearly apparent—that is, when no rational trier of fact could have agreed with the agency. *Durand*, 224 Ill. 2d at 64. A reviewing court will not reweigh the evidence or reject reasonable inferences drawn by the Commission simply because other reasonable inferences could have been drawn. *Id.*

¶ 68 The claimant's entire argument on this issue consists of a single paragraph with no citations to the record or to relevant authority. Accordingly, the argument is forfeited. See Ill. S. Ct. R. 341(h)(7) (eff. Oct. 1, 2020) (requiring appellant's brief to include argument "which shall contain the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on"); *Vallis Wyngroff Business Forms, Inc. v. Illinois Workers' Compensation Comm'n*, 402 Ill. App. 3d 91, 94 (2010) (holding an argument forfeited because it failed to cite authority, in violation of Illinois Supreme Court Rule

341(h)(7)); *People v. Davis*, 335 Ill. App. 3d 1, 20 (2002) (argument forfeited by failing to cite record).

¶ 69 In any event, the argument lacks merit. In reducing the additional PPD award, the Commission considered each of the factors prescribed in section 8.1(b) of the Act, applied each factor to the evidence, carefully and thoroughly analyzed the evidence, and provided a lengthy, thorough, and well-reasoned explanation of its findings. We cannot say that the Commission's finding that the January 25, 2018, work accident resulted in a disability of 3% more than the 30% disability caused by the prior work accident (as opposed to 12.5% more, as the arbitrator found) was against the manifest weight of the evidence.

¶ 70 **CONCLUSION**

¶ 71 For the foregoing reasons, we affirm the judgment of the circuit court of Ogle County, which affirmed the Commission's decisions.