

No. 1-24-2111WC

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

ONREE WILLIAMS,)	Appeal from the
)	Circuit Court of
Appellant,)	Cook County
)	
v.)	No. 24L50113
)	
THE ILLINOIS WORKERS' COMPENSATION)	
COMMISSION <i>et al.</i> ,)	Honorable
)	Daniel P. Duffy,
(Terminal Getaway Spa, Appellee).)	Judge Presiding.

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

ORDER

- ¶ 1 *Held:* Because claimant does not contend that by finding the lack of a proven causal relationship between his work for respondent and his bilateral carpal tunnel syndrome and bilateral index, middle, and ring trigger fingers, the Illinois Workers' Compensation Commission (Commission) made a finding that was against the manifest weight of the evidence, any error the Commission made regarding the manifestation date of those conditions was harmless.
- ¶ 2 Claimant, Onree Williams, was employed by respondent, Terminal Getaway Spa,

as a massage therapist. He filed a claim for workers' compensation benefits in which he alleged that his work for respondent had caused him to develop bilateral carpal tunnel syndrome and bilateral index, middle, and ring trigger fingers. The Illinois Workers' Compensation Commission (Commission) found that the alleged manifestation date of those conditions was unproven. Also, the Commission found that work-related causation was unproven. For those two reasons, the Commission denied the claim for workers' compensation benefits.

¶ 3 Claimant sought review in the Cook County circuit court. The court confirmed the Commission's decision, concluding that the decision was not against the manifest weight of the evidence.

¶ 4 Claimant appeals. He argues the Commission erred in its analysis regarding the manifestation date of his allegedly work-related conditions of ill-being, *i.e.*, his bilateral carpal tunnel syndrome and bilateral index, middle, and ring trigger fingers. Specifically, he disputes the Commission's premise that, in a repetitive trauma case, the employee's awareness of the onset of symptoms necessarily includes an awareness that the symptoms are work-related.

¶ 5 We hold that, by finding that causation was unproven, the Commission did not make a finding that was against the manifest weight of the evidence. We so hold because, in this appeal, claimant does not contend otherwise. Given the lack of a proven causal relationship between claimant's work for respondent and his condition of bilateral carpal tunnel syndrome and bilateral index, middle, and ring trigger fingers, any error the Commission made regarding the manifestation date would be harmless. Therefore, we affirm the circuit court's judgment that confirmed the Commission's decision.

¶ 6 I. BACKGROUND

¶ 7 On June 22, 2022, at the arbitration hearing, the evidence relevant to the claim of

work-related carpal tunnel syndrome and trigger fingers was essentially as follows.

¶ 8 Claimant was employed by respondent as a massage therapist from January 2014 to September 2015. His hours varied, depending on how many customers came in, but typically, he worked seven hours a day, five days a week. He gave 8 to 20 massages a day. The duration of a massage ranged from 10 minutes to 90 minutes.

¶ 9 The massages were either a deep tissue massage, a Swedish massage, or a sports massage. A deep tissue massage, according to claimant's testimony, entailed applying "more pressure"—"repetitive" pressure—to the body, arms, hands, and legs. A Swedish massage was "a light touch, like a light stroke, repetitive stroke." A sports massage was "a lot of cupping," "oscillating the joints," and "hitting the back with closed fists" and the elbow. Oscillating, or shaking, the joints in a sports massage required a "heavy" "grip strength." A deep tissue massage, which was what perhaps 70% of the customers wanted, likewise required a heavy grip.

¶ 10 Claimant testified that about six months after he started working for respondent, his hands and wrists began hurting. Because he assumed that the pain would not worsen, he continued working. He testified it was not until after August 30, 2015, when his manager accidentally shut a closet door on his left hand (an accident that occasioned another workers' compensation claim), that claimant decided to seek treatment for his bilateral hands and wrists. According to claimant's testimony, his left wrist bothered him more than his right wrist, and he felt "locking," numbness, and tingling in his bilateral index, middle, and ring fingers. Over the years, as he received treatment from Dr. Robert Fink of Gold Coast Orthopedic Spine and Hand Surgery, these symptoms continued to worsen.

¶ 11 On September 18, 2015, claimant saw Dr. Mark Gerber of Fullerton Drake Medical Center for the closet door injury to his left hand, not for bilateral hand and wrist symptoms. Dr.

Gerber prescribed physical therapy, and claimant continued to follow up with Dr. Gerber through June 2016.

¶ 12 On October 26, 2015, claimant consulted Dr. Fink for the first time, complaining of pain in his left index finger. Dr. Fink testified in his evidence deposition that, in that initial visit, claimant never complained to him of bilateral hand or wrist pain.

¶ 13 On October 28, 2015, Dr. Gerber referred claimant for an electromyography (EMG) study of his bilateral upper extremities.

¶ 14 On October 29, 2015, claimant saw Dr. Richard Kiang of Spine MD Limited. According to Dr. Kiang's note for that date, claimant's "Chief Complaint" was "left first through third finger paresthesias with a pain score of six to 10 out of 10"—in short, "[left] hand and finger pain." Dr. Kiang did not note any complaint of bilateral hand or wrist pain. He administered an EMG to "Rule out sympathetic dystrophy to the L[eft] 2nd and 3rd fingers." After the EMG, he diagnosed "SEVERE R[IGHT] CARPAL TUNNEL SYNDROME AFFECTING ONLY THE MOTOR ASPECT OF THE NERVE AND MILD L[LEFT] CARPAL TUNNEL SYNDROME AFFECTING ONLY THE MOTOR ASPECT OF THE NERVE not likely due to his work injury with contributory L[eft] 2nd and 3rd finger pain."

¶ 15 On November 25, 2015, five days after Dr. Fink surgically removed a soft-tissue mass from the proximal interphalangeal joint of claimant's left index finger, claimant attended a follow-up appointment with him. Judging by Dr. Fink's note for that date, claimant did not complain to him, at that time, of pain in both hands and wrists.

¶ 16 When examining claimant on February 17, 2016, Dr. Fink found that the left index finger had become more mobile. On cross-examination in his evidence deposition, Dr. Fink admitted that, in that visit, claimant did not complain to him of symptoms in both hands and wrists

and that, consequently, Dr. Fink did not examine both hands and wrists at that time.

¶ 17 On February 18, 2016, at respondent's request, claimant underwent an independent medical examination by Dr. John J. Fernandez, who was board-certified in orthopedic surgery with a certificate of additional qualification in hand surgery and microsurgery. During the examination, claimant complained of pain, swelling, stiffness, and weakness in his left index finger. It does not appear that, in this first independent medical examination, claimant complained to Dr. Fernandez of bilateral hand and wrist symptoms.

¶ 18 On March 21, 2016, when Dr. Fink examined claimant again, he diagnosed a stitch abscess on the left index finger. At that time, he did not note any complaints of pain in both hands and wrists.

¶ 19 On March 30, 2016, after reading Dr. Fernandez's report of his independent medical examination of claimant, Dr. Fink wrote a narrative report disagreeing with Dr. Fernandez's finding of a lack of work-related causation. Dr. Fink reiterated the opinion he had given previously, namely, that the closet door accident had caused claimant to develop (1) a soft-tissue mass on a joint of his left index finger and (2) after surgical removal of the mass, a "residual abscess" and "subsequent scar tissue" on that finger joint.

¶ 20 In addition, on March 30, 2016—apparently for the first time in his records—Dr. Fink noted a complaint by claimant of carpal tunnel syndrome in his right hand and a milder case of carpal tunnel syndrome in his left hand. According to Dr. Fink, there was "a definite causal relationship between [claimant's] work as a massage therapist and symptomatology." Dr. Fink recommended surgical removal of the stitch abscess (which eventually went away on its own, without surgery). Also, to prevent further atrophy and a worsening of complex regional pain syndrome, he recommended carpal tunnel releases in both hands.

¶ 21 On May 25, 2016, claimant complained to Dr. Fink of decreased sensation in both hands—greater in the left hand than in the right. Dr. Fink continued to recommend carpal tunnel releases.

¶ 22 In a follow-up appointment on June 29, 2016, claimant told Dr. Fink that he still had bilateral wrist pain and decreased sensation in his fingers. On physical examination, Dr. Fink found a positive Tinel’s sign in both hands and decreased sensation in the thumbs, index fingers, and the radial half of the ring fingers of both hands.

¶ 23 In an appointment with Dr. Fink on August 8, 2016, claimant reported he had been experiencing locking in the index and long fingers of both hands. Dr. Fink found that Phalen’s test was positive bilaterally. Also, consistent with trigger fingers in both hands, he noted tenderness in the A1 pulley of the bilateral index and long fingers.

¶ 24 On November 14, 2019, claimant underwent a second independent medical examination by Dr. Fernandez. This time, he complained to Dr. Fernandez not only of residual pain in his left index finger but also of numbness and tingling in both his wrists. In his physical examination of claimant, Dr. Fernandez noted that, during provocative testing of both wrists, claimant reported pain extending into the palms. At the A1 pulley of the left index finger, there was tenderness, and there was pain with range of motion. Dr. Fernandez diagnosed trigger digit of the left index finger and bilateral carpal tunnel syndrome. He opined, however, that the bilateral carpal tunnel syndrome was unrelated to the workplace accident of August 2015 because that accident had inflicted a crush injury only to the left hand. He further opined that the bilateral carpal tunnel syndrome was causally unrelated to claimant’s work as a massage therapist. Dr. Fernandez explained in his report:

“[T]here is no indications [*sic*] that [claimant] was having numbness or

tingling complaints as part of his general work duties as a massage therapist. In addition to the physical demand level is defined as ‘light.’ While the activities involve some pushing, gripping, and pulling, including the use of some tools these are variable or intermittent in nature and even assuming that there [*sic*] were more frequent in nature, these would not be the type of nature that would cause or aggravate the underlying carpal tunnel syndrome even from a nontraumatic ‘repetitive’ exposure theory.”

Therefore, there would be a lack of causation between the bilateral carpal tunnel syndrome and his work activities.”

Dr. Fernandez was of the view that claimant could return to work as a massage therapist.

¶ 25 Dr. Fink testified he had treated claimant for over six years, through 2021, and that claimant’s condition of carpal tunnel syndrome had continued to worsen, even though claimant had not worked since August 30, 2015. (On cross-examination, though, Dr. Fink admitted it was not until March 30, 2016, that claimant first reported to him any bilateral hand and wrist problems.) Claimant had told Dr. Fink that the pain and numbness in his wrists and hands woke him up at night and that he needed assistance driving. Because the job of a massage therapist required repetitive motions of the hands, which could make the carpal tunnel syndrome worse, Dr. Fink had kept claimant off work. Dr. Fink disagreed with Dr. Fernandez not only about claimant’s ability to return to work, but also about the lack of a causal relationship between the carpal tunnel syndrome and the work that claimant had done for respondent. Dr. Fink opined that repetitive motions of the hands and wrists, such as the motions required in massage therapy—volar flexion, dorsiflexion, and pressing hard with the hands—could, over two to three years, cause carpal tunnel syndrome.

¶ 26 In his evidence deposition, Dr. Fernandez agreed, on the basis of EMG findings and his own physical examination of claimant, that claimant had carpal tunnel syndrome and trigger digit. For two reasons, however, Dr. Fernandez disagreed that claimant's work for respondent had caused the carpal tunnel syndrome.

¶ 27 First, even if Dr. Fernandez agreed that working as a massage therapist could cause or aggravate carpal tunnel syndrome (he did not so agree, but assuming he did agree), "temporality," or "the onset of symptoms," was lacking in this case. One would expect the massage therapist to "develop symptoms with those activities," but claimant's history was different. After the closet door injury to his left hand, he stopped working, and he remained off work for two months before an EMG was performed. It was not until March 2016 that he was "really given a true diagnosis of carpal tunnel by Dr. Fink"—when claimant had been off work for seven months. Dr. Fernandez would have expected that if the carpal tunnel syndrome were "work-related due to repetitive exposure frequency," being off work would have caused the symptoms to improve rather than worsen over the "last four years" that claimant had now been off work.

¶ 28 Second, Dr. Fernandez reasoned that, not only temporality, but also the "mechanism" for carpal tunnel syndrome was lacking: specifically, the exertion of "deep pressure" or heavy force. To be sure, massage therapists exerted force, but Dr. Fernandez explained:

"It is the type of force. There's a difference in the force that's required to push on somebody with a palm, use an instrument, to push deeply into somebody with a knuckle or hand, and the force of gripping a tool and doing that on a repeated enough basis that it would contribute to carpal tunnel.

You can't equate the concepts of okay, it is just force. He has to use heavy force. Everybody knows the massage therapist is pushing on you heavy.

It does not equate to heavy force of picking up a package, or the heavy force of using a tool. It's a different type of heavy."

Dr. Fernandez noted there was no "reasonable scientific data that show[ed] an increased incidence" of carpal tunnel syndrome in the population of occupational therapists, physical therapists, and massage therapists.

¶ 29 Dr. Fernandez suggested that a similar problem with "temporality" bedeviled a theory of work-related causation for the trigger finger:

"Now we have him away from massage therapy close to four years before we come up with a diagnosis of trigger finger.

He didn't have it when I saw him the first time. He didn't have it until literally 2016.

I have to look through the records to see exactly where Fink gives the diagnosis. Let's assume it was a year later, which it was not. But assume a year or two years later.

Again, you need a temporal relationship between exposure and disease or onset and/or mechanism. Something that would or could reasonably cause it."

¶ 30 In its decision, the Commission noted that, under *Peoria County Belwood Nursing Home v. Industrial Comm'n*, 115 Ill. 2d 524, 531 (1987), an employee claiming to have sustained a repetitive trauma injury from his or her work for the employer had to allege and prove a specific manifestation date: a date within the limitations period on which both the fact of the injury and the causal link to the work would have become plainly apparent to a reasonable person. Claimant alleged a manifestation date of October 28, 2015, for the carpal tunnel syndrome and trigger fingers. He testified, though, that his hands and wrists began bothering him six months after he

began working for respondent and that these bilateral hand and wrist symptoms grew worse after the closet door accident of August 2015. Nevertheless, he did not report these bilateral hand and wrist symptoms to a medical provider until 2016. The Commission concluded that if claimant developed bilateral carpal tunnel syndrome from working for respondent, he should have become aware of this condition and the causal connection in June 2014, around six months after he began his employment with respondent.

¶ 31 Apart from claimant’s asserted failure to prove the alleged manifestation date of October 28, 2015, the Commission found that Dr. Fernandez was credible in his reasoning that “temporality” and “mechanism” were lacking. Hence, the Commission concluded that a causal relationship between the carpal tunnel syndrome and claimant’s work for respondent was unproven.

¶ 32 In sum, then, the Commission was “not convinced that the bilateral carpal tunnel diagnoses are causally related to [Claimant’s] job with Respondent, nor that the alleged repetitive trauma manifested on 10/28/15 as [Claimant] argues.” For those two reasons, the Commission denied workers’ compensation benefits for the carpal tunnel syndrome and trigger fingers.

33 II. ANALYSIS

¶ 34 “Setting th[e] so-called manifestation date is a fact determination for the Commission” (*Durand v. Industrial Comm’n*, 224 Ill. 2d 53, 65 (2006)), and we will defer to that fact determination unless it is against the manifest weight of the evidence (see *id.* at 64). To be against the manifest weight of the evidence, the fact determination must be one with which “no rational trier of fact” could agree. *Id.*

¶ 35 Claimant argues that, by setting the manifestation date in June 2014, six months after the start of his employment with respondent, the Commission made a decision that was

against the manifest weight of the evidence, for in June 2014, claimant merely began noticing *symptoms* in his hands and wrists and it is clear, from case law, that “the date on which the employee notices a repetitive-trauma injury is not necessarily the manifestation date” (*id.* at 68). Just because an employee becomes aware of symptoms, the employee (or a reasonable person in the employee’s circumstances) would not necessarily become simultaneously aware that *his or her work for the employer had caused the symptoms*. In two cases that claimant cites as examples, the employees first became aware of symptoms in their hands and wrists, but the manifestation date was not until later, when doctors informed them that they had *work-related* carpal tunnel syndrome. See *Peoria County Belwood Nursing Home*, 115 Ill. 2d at 531; *Three “D” Discount Store v. Industrial Comm’n*, 198 Ill. App. 3d 43, 48 (1989).

¶ 36 Although claimant testified that, six months after he began his employment with respondent, that is, in June 2014, his hands and wrists began bothering him, he points out, on appeal, that he

“was last seen by Dr. Gerber on October 28, 2015 who recommended an [EMG] test, which showed evidence of [claimant’s] carpal tunnel syndrome. On March 30, 2016, Dr. Fink authored a Narrative Report where he explicitly noted that [claimant] had ‘complaints of severe carpal tunnel syndrome on the right and mild on the left so there is definite causal relationship between his work as a massage therapist and symptomatology.’ ”

Thus, claimant concludes, “this Court can reasonably infer that [claimant] first learned that his carpal tunnel syndrome was related to his work activities as a massage therapist between October 28, 2015 and March 30, 2016.”

¶ 37 Claimant makes a valid point here about the manifestation date. The trouble is, he

appears to overlook the Commission's alternative reason for denying workers' compensation benefits for the bilateral carpal tunnel syndrome and trigger fingers: claimant's failure to prove work-related causation. The Commission wrote:

“Dr. Fernandez testified that he did not believe [Claimant's] bilateral carpal tunnel syndrome was related to his activities as a massage therapist because of the (1) temporality of [Claimant's] onset of symptoms and (2) the type of force [Claimant's] job duties required.

* * *

On 1-17-2022 Dr. Fernandez stated in his deposition that at the time of his examination at Respondent['s] request on 11-14-2019, he noted that [Claimant] has not worked for four years, however, during this time [Claimant's] symptoms have increased. Dr. Fernandez stated that this is unusual given the fact that if the carpal tunnel syndrome was to be deemed work related due to repetitive exposure frequency, there would be a significant improvement in symptoms while being off work. ***

The Arbitrator is not convinced that the bilateral carpal tunnel diagnoses are casually [*sic*] related to [Claimant's] job with Respondent. *** [T]he Arbitrator finds Dr. Fernandez to be more persuasive on the issue of whether or not the bilateral carpal tunnel syndrome arose out of [Claimant's] employment with Respondent.”

¶ 38 Claimant does not explain how, by believing Dr. Fernandez's opinion that the carpal tunnel syndrome and trigger fingers were causally unrelated to claimant's work for respondent, the Commission made a decision that was against the manifest weight of the evidence.

See *Swartz v. Illinois Industrial Comm’n*, 359 Ill. App. 3d 1083, 1086 (2005) (“Whether a causal connection exists between an injury and employment is a question of fact for the Commission to decide and its decision will not be overturned unless it is against the manifest weight of the evidence.”). In fact, in the argument of his brief, claimant does not even appear to take the position that the Commission’s finding of a lack of causation is against the manifest weight of the evidence. “Points not argued are forfeited and shall not be raised in the reply brief, in oral argument, or on petition for rehearing.” Ill. S. Ct. R. 341(h)(7) (eff. Oct. 1, 2020). “[A]n employee who alleges injury based on repetitive trauma must still meet the same standard of proof as other claimants alleging an accidental injury. There must be a showing that the injury is work related and not the result of a normal degenerative aging process.” *Peoria County Belwood Nursing Home*, 115 Ill. 2d at 530. By leaving the issue unaddressed, claimant effectively concedes that he failed to make the required showing of work-related causation with respect to his bilateral carpal tunnel syndrome and trigger fingers. See Ill. S. Ct. R. 341(h)(7) (eff. Oct. 1, 2020).

¶ 39

III. CONCLUSION

¶ 40 For the foregoing reasons, we affirm the circuit court’s judgment that confirmed the Commission’s decision.

¶ 41 Affirmed.