No. 1-23-1800WC

2024 IL App (1st) 231800WC-U

Order filed October 18, 2024



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IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

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| ERICA FIGUEROA, | ) | Appeal from the Circuit Court |
| | ) | of Cook County |
| | ) | |
| Appellant, | ) | |
| | ) | |
| v. | ) | Appeal No. 1-23-1800WC |
| | ) | Circuit No. 2022 L 050300 |
| | ) | |
| ILLINOIS WORKERS' COMPENSATION COMMISSION, *et al.*, (Tootsie Roll Industries, Appellees.) | ) | Honorable Jean M. Golden, Judge, Presiding. |

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

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**ORDER**

¶ 1 The Commission’s finding that the claimant failed to prove that her current condition of ill-being is causally related to her July 21, 2018, work accident is not against the manifest weight of the evidence.

¶ 2 I. INTRODUCTION

¶ 3 The claimant, Erica Figueroa, filed an application for adjustment of claim under the Illinois Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2018)), seeking benefits for injuries to her right shoulder that she sustained on July 21, 2018, while she was employed by respondent Tootsie Roll Industries (employer). Following a hearing, an arbitrator found that the claimant had failed to establish that her current condition of ill-being was causally related to the work accident. The arbitrator awarded the claimant temporary total disability (TTD) benefits from July 27, 2018, through June 17, 2019, and certain prior medical expenses, but denied the claimant's claim for prospective medical care.

¶ 4 The claimant appealed the arbitrator's decision to the Illinois Workers' Compensation Commission (Commission). The Commission affirmed the arbitrator's decision with certain modifications. The Commission found that the claimant had reached maximum medical improvement (MMI) as of June 5, 2019, and ruled that the claimant was not entitled to TTD benefits after that date. It therefore modified the period of TTD to July 27, 2018, through June 5, 2019. The Commission further found that the employer was not required to pay for treatments the claimant underwent at Hinsdale Orthopedics because such treatments were outside the chain of referrals. The Commission affirmed and adopted the arbitrator's decision in all other respects.

¶ 5 Commissioner Tyrrell dissented. He believed that the evidence established that the claimant's ongoing right shoulder condition is causally related to her July 21, 2018, work injury. In Commissioner Tyrrell's opinion, the factual and medical evidence established that the claimant has not yet reached MMI and requires further treatment as recommended by one of her treating physicians. Commissioner Tyrrell concluded that the claimant's complaints of ongoing

pain and other symptoms are credible and are corroborated by the medical records and expert testimony. Accordingly, he would have reversed the arbitrator's decision in its entirety.

¶ 6 The claimant sought judicial review of the Commission's decision in the circuit court of Cook County, which confirmed the Commission's ruling.

¶ 7 This appeal followed.

## II. BACKGROUND

¶ 8 The claimant worked for the employer as a general laborer. Her duties included packing candy bins from conveyors. This required her to grab and catch 50-pound candy bins from the conveyor and then carry and stack them onto pallets.

¶ 9 On July 21, 2018, the claimant was adjusting a bin when she felt a "pop" in her right shoulder. She immediately informed her supervisor, Josefina Garcia, that it felt like something snapped in her shoulder. Garcia asked the claimant if she needed to go to the hospital. The claimant initially declined to do so and continued working. However, as the claimant finished dumping the bins onto a "bed," she felt a burning sensation in her right hand and arm going up to her neck. She then told Garcia that she needed to go to the hospital.

¶ 10 At Garcia's direction, the claimant went to Concentra Medical Center for treatment. The claimant was diagnosed with a rotator cuff strain and given work restrictions. She returned to Concentra two days later complaining of worsening right shoulder symptoms.

¶ 11 The claimant resumed light duty work for a few days. On July 26, 2018, she presented to Excel Occupational Clinic for further evaluation. She was diagnosed with a right biceps strain and trapezius strain and given work restrictions.

¶ 12 On July 27, 2018, the claimant was evaluated by Billy Hayduk, a physician's assistant at Midwest Anesthesia & Pain Specialists ("MAPS"). The claimant reported experiencing neck

pain and continuing shoulder pain. Upon examination, Hayduk found that the claimant had a diminished range of motion with pain in her right shoulder. Hayduk diagnosed right shoulder pain, neck pain, and cervical radiculopathy. He prescribed medication and directed the claimant to undergo physical therapy. He took the claimant completely off work for four weeks.

¶ 13 On that same day, the claimant began therapy at the Advanced Spine and Rehabilitation Center (ASRC) with chiropractor Dr. Ansu Durgut. The claimant had persistent right shoulder symptoms over the following weeks. Dr. Durgat ordered MRI studies of the right shoulder and cervical spine. Both MRIs were performed on August 10, 2018. The cervical MRI indicated a spasm or strain but showed no disc herniation or bulging. The right shoulder MRI demonstrated mild osteoarthritis in the acromioclavicular (AC) joint, mild bursitis, and supraspinatus tendinopathy.

¶ 14 The claimant returned to MAPS on August 15, 2018, and September 18, 2018, reporting ongoing burning pain in her right shoulder. She reported feeling some relief after being treated with a transcutaneous electrical nerve stimulation (TENS) unit. The physical exams were essentially unchanged. She was referred to Dr. Benjamin Goldberg, an orthopedic surgeon, for further evaluation.

¶ 15 The claimant saw Dr. Goldberg on September 14, 2018. She reported experiencing pain at a level of 6 or 7 out of 10 in the anterior aspect of her right shoulder, discomfort around her scapula and neck, and numbness and tingling in her thumb and fingers. On physical examination, the claimant was tender to palpation over the bicipital groove, the AC joint, and the scapula. She had positive Hawkins', O'Brien's, Speed's, and crossover signs. Dr. Goldberg reviewed the August 10, 2018, shoulder MRI film and found it to be of very poor quality. He diagnosed rotator cuff and biceps tendinopathy and administered a corticosteroid injection to the right

shoulder.

¶ 16 The claimant returned to Dr. Goldberg on September 28, 2018. She reported that the injection had provided temporary relief but her pain had returned. She complained of continuing numbness and tingling in her small and ring fingers. Dr. Goldberg recommended that the claimant undergo arthroscopic surgery on her right shoulder. The claimant elected to have the surgery.

¶ 17 Pending surgery, the claimant continued therapy at the ASRC Clinic. She reported experiencing constant, achy, and burning pain in her upper right arm. She returned to Dr. Hayduk on October 3, 2018, complaining of the same symptoms. Dr. Hayduk ordered an EMG/NCV to test for cervical radiculopathy and continued the claimant on physical therapy and TENS treatments.

¶ 18 On November 20, 2018, Dr. Goldberg performed a right shoulder arthroscopy, mini-open rotator cuff repair with patch, subacromial decompression, biceps tenodesis and distal clavicle resection.

¶ 19 The claimant followed up with Dr. Goldberg several times between November 26, 2018, and February 22, 2019. During that time, she was limited to restricted work. She resumed physical therapy at ASRC on December 5, 2018. The ASRC records indicate that, on February 20, 2019, the claimant reported ongoing right shoulder pain and difficulty with sleeping and activities of daily living.

¶ 20 At a follow up visit on April 12, 2019, Dr. Goldberg noted that the claimant had improved range of motion but needed to work on endurance and strengthening. The claimant had-full range of motion of forward flexion, abduction, as well as full external and internal rotation. However, she still had pain in the proximal biceps region. Dr. Goldberg recommended

a course of work conditioning followed by a functional capacity evaluation (FCE). He imposed a five pound lifting restriction.

¶ 21 The claimant underwent a work conditioning evaluation at Athletico on April 19, 2019. She attended nine sessions through May 3, 2019. On that date, a work conditioning functional status report was completed. The report noted that the claimant did not demonstrate the physical abilities needed to return to her prior job with the employer. It stated that the claimant only met 31.25% of the reported job demands required to function as a general laborer, and that she was capable of functioning only at the sedentary physical demand level. The therapist recommended that work conditioning be discontinued.

¶ 22 On May 24, 2019, the claimant returned to Dr. Goldberg complaining of some continuing burning pain in her right shoulder, but she noted that the pain had improved since her last visit. Upon physical examination of the claimant's shoulder, Dr. Goldberg found that the claimant had full range of motion which was "greatly improved in terms of forward flexion." He noted that the claimant had limited abduction with slight pain, and her shoulder strength was at a level of 4 out of 5. The claimant was able to lift seven pounds during physical therapy. Dr. Goldberg recommended one additional month of therapy and a repeat MRI of the right shoulder to determine whether the surgical sites had healed completely.

¶ 23 At the employer's request, the claimant was examined by Dr. Ajay Balaram, an orthopedic surgeon who served as the employer's independent medical examiner (IME). Dr. Balaram examined the claimant on May 28, 2019. He also reviewed the claimant's job description and her medical records.

¶ 24 Dr. Balaram issued a written report of his findings on June 5, 2019. In his report, Dr. Balaram noted that the claimant gave a history of injuring her right shoulder while lifting 50-

pound bins at work, and she demonstrated the mechanics of the injury. Although the claimant reported some improvement after her surgery, she complained of ongoing, stabbing pain with reduced range of motion in her right shoulder, which limited the shoulder's use and function. She also complained of occasional burning in the forearm.

¶ 25 Dr. Balaram conducted a physical examination of the claimant's upper extremities and cervical spine. The claimant exhibited tenderness over the right paracervical muscles. The examination of the cervical spine was otherwise normal, as was the examination of the left upper extremity and the right elbow.

¶ 26 Dr. Balaram's examination of the claimant's right shoulder revealed a well-healed arthroscopic incision. There was no erythema, fluctuance, or drainage. The claimant had right shoulder forward elevation to 170 degrees, external rotation to 70 degrees, abduction to 85 degrees, and internal rotation to her buttock. Her strength was 5 out of 5 with external rotation and abduction. Internal rotation strength was also 5 out of 5 in forward elevation with the arm slightly abducted. There was no atrophy of the infraspinatus, supraspinatus, or deltoid muscles.

¶ 27 Dr. Balaram believed that the claimant showed signs of symptom magnification, noting non-anatomic and non-physiologic findings. For example, the claimant exhibited non-anatomic pain with light touch throughout her right shoulder.

¶ 28 Dr. Balaram noted that the claimant cried throughout the physical examination, even prior to any maneuvers. She cried during her description of her condition. She reported that she was not crying because of pain but mostly because of the "situation."

¶ 29 Dr. Balaram concluded that the claimant had sustained a work-related injury to her right shoulder on July 21, 2018, and agreed that the surgery performed by Dr. Goldberg was appropriate and causally related to the work injury. However. Dr. Balaram opined that the

claimant had reached MMI and could return to full duty work without restrictions. He based that opinion on the claimant's strength in her right shoulder, the fact that she had nearly a full active range of motion in the shoulder, and the lack of objective findings indicating residual disability. He opined that continued pain medication was unnecessary and that further medical treatment was not likely to improve the claimant's condition.

¶ 30 The claimant returned to Dr. Goldberg on June 21, 2019. Dr. Goldberg believed that there may be an abnormality in the claimant's right shoulder given the swelling in the shoulder and her report of continuing pain.

¶ 31 Another MRI of the claimant's right shoulder was performed on July 23, 2019. The radiologist noted postsurgical artifacts, a small cyst/erosion at the superolateral head, mild tendinosis of the distal supraspinatus tendon, mild subacromial subdeltoid bursal effusion, and mild glenohumeral joint effusion. The radiologist indicated that there was no full-thickness tear of the rotator cuff.

¶ 32 The claimant returned to Dr. Goldberg on August 2, 2019. She reported experiencing pain and clicking in her right shoulder, and she claimed that she was unable to abduct the shoulder fully. Dr. Goldberg reviewed the July 23, 2019, MRI and found it unremarkable except for some tendinitis and a humeral cyst. On physical examination, the claimant demonstrated limited active range of motion but had normal passive range of motion. Dr. Goldberg noted that that "[the] MRI did not have any findings that are consistent with [the claimant's] complaints." He suggested another injection, which the claimant declined. She decided to obtain a second opinion.

¶ 33 Dr. Balaram reviewed the updated MRI report and images taken on July 23, 2019, and authored an addendum report dated August 19, 2019. Dr. Balaram opined that the updated MRI

images showed biceps tenodesis, distal clavicle excision, and rotator cuff repair, which Dr. Balaram found to be intact without re-rupture. He found the humeral head anchor to be well seated without evidence of detachment. Dr. Balaram adhered to his prior opinions, including his opinion that the claimant did not require any further medical treatment.

¶ 34 On October 7, 2019, the claimant saw Dr. Robert Thorsness, and orthopedic surgeon, to obtain a second opinion as to her medical condition and proposed course of treatment. She gave Dr. Thorsness a history of her work-related injury and reported experiencing significant pain, weakness, and dysfunction in her right upper extremity.

¶ 35 On examination, Dr. Thorsness noted tenderness of the AC joint, greater tuberosity in the trapezial area, active shoulder elevation to 100 degrees, passive elevation to 170 degrees, and external rotation at 60 degrees. He found that the claimant had diminished strength. There was no muscular atrophy in the shoulder, and the claimant was neurovascularly intact. Dr. Thorsness also noted that the claimant exhibited inappropriate mood and affect.

¶ 36 Dr. Thorsness found the July 23, 2019, MRI to be of very poor quality, and he recommended that a closed MRI be performed. He opined that the July 23, 2019, MRI indicated subacromial bursitis. His diagnostic impression was persistent right shoulder pain following right shoulder surgery. Because the claimant complained of pain radiating to her forearm and hand, Dr. Thorsness ordered an upper extremity EMG to rule out cervical radiculopathy. He noted that the claimant was unable to work.

¶ 37 The claimant underwent a closed MRI of her right shoulder on October 4, 2019. The radiologist noted postsurgical changes and artifacts in the rotator cuff, AC joint, and biceps. The radiologist indicated that there was no full thickness rotator cuff tear but there was a non-detached labral tear. There was also mild increased signal by the supraspinatus myotendinous

junction, possibly from sprain, and mild increased fluid in subacromial subdeltoid bursa, and postsurgical changes of biceps tenodesis.

¶ 38 An EMG was performed on November 4, 2019. The results were normal. That same day, the claimant was seen by Dr. Thorsness's physician assistant, PA Chrisopher Bridgeman. Bridgeman opined the recent right shoulder MRI showed partial-thickness bursal-sided rotator cuff tearing consistent with extrinsic impingement, which he believed was the main contributor to the claimant's pain. He administered a right subacromial cortisone injection. The claimant was released to work with a lifting restriction of one to five pounds and no overhead work.

¶ 39 The claimant followed up with Dr. Thorsness on December 16, 2019. Although she reported experiencing some temporary relief from the injection, she stated that her ongoing right shoulder pain had returned. Dr. Thorsness recommended surgery to alleviate the claimant's pain. Specifically, he recommended that the claimant undergo a revision right shoulder arthroscopy with subacromial decompression, distal clavicle excision, and evaluation for a possible rotator cuff repair.

¶ 40 Dr. Balaram examined the claimant a second time on January 21, 2020, at the request of the employer. Dr. Balaram reviewed Dr. Thorsness's records, the October 24, 2019, MRI, and the November 4, 2020, EMG. Upon examination of the claimant, Dr. Balaram found there was mild tenderness over the right and left paracervical muscles. The left upper extremity was essentially normal. Examination of the right upper extremity revealed well-heeled arthroscopic incisions and an interior biceps tenodesis incision. As for the range of motion in the right shoulder, Dr. Balaram noted normal forward elevation but diminished external and internal rotation and abduction. The claimant reported pain at the ends of ranges of motion. She had a mildly positive Hawkins sign but had negative drop-arm, empty-can, O'Brien's, Neer's,

Yergason's, apprehension relocation, and belly press and lift off. Examination of the right biceps was essentially normal.

¶ 41 Dr. Balaram noted that the claimant had magnified her symptoms during the examination, and she again demonstrated non-anatomic and non-physiologic pain distribution. Although the claimant reported that she could not lift her arm, she demonstrated an ability to lift her arm in full forward elevation to 180 degrees. The claimant also reported having difficulty with abduction, but her abduction was nearly symmetric with the contralateral side.

¶ 42 Dr. Balaram reviewed the October 24, 2019, MRI imaging and report. He concluded that the images showed normal post-surgical changes at the distal clavicle because of the prior distal clavicle excision. He further noted an intact labrum and subscapularis tendon, previously tenodesed biceps tendon with intact hardware and well-seated anchors, an intact rotator cuff with well-seated anchors and no evidence of retraction or re-tear, well-defined muscle bulk, and appropriate seating of the shoulder tendons.

¶ 43 Dr. Balaram also reviewed updated records of Dr. Thorsness, including Dr. Thorsness's recommendation for revision surgery. Dr. Balaram concluded the October 24, 2019, MRI did not demonstrate any findings warranting surgical intervention. He felt that, because the claimant reported subjective complaints that were not supported by objective evidence, surgery would not alleviate her symptoms, and was therefore not warranted. Dr. Balaram opined that the claimant was at MMI and was able to return to unrestricted work.

¶ 44 Dr. Thorsness testified at the arbitration hearing by way of evidence deposition. Dr. Thorsness stated that the October 24, 2019, MRI of the claimant's right shoulder showed the sequalae of a prior rotator cuff repair and biceps tenodesis, which appeared fine. However, the MRI also revealed severe residual AC joint inflammation and arthritis with remaining anterior

spurring of the undersurface of the acromion and a partial thickness bursal-sided rotator cuff tear consistent with extrinsic impingement. Dr. Thorsness opined that the MRI images were consistent with the claimant's physical examination as well as her subjective complaints. He recommended a revision shoulder arthroscopy for concerns of residual impingement, possible rotator cuff failure, or suprascapular weakness.

¶ 45 On cross-examination, Dr. Thorsness agreed that Dr. Goldberg found the claimant's complaints were unrelated to the July 23, 2019, MRI results. He conceded that the radiologist who interpreted the October 24, 2019, MRI did not find spurring of the undersurface of the acromion associated with rotator cuff tearing or impingement.

¶ 46 Dr. Balaram testified by evidence deposition. Dr. Balaram stated that, when he examined the claimant on May 18, 2019, she showed good strength associated with the rotator cuff, active range of motion that was nearly normal, and a healed rotator cuff repair. There was no evidence of any complications associated with surgery, and no evidence of any significant deterioration in the range of motion in her right shoulder when compared with her left shoulder.

¶ 47 Dr. Balaram opined that the claimant's pain complaints were out of proportion given her range of motion and associated strength. In addition, her pain complaints were not within a distribution that followed anatomic or physiologic distribution. Dr. Balaram further opined that the claimant's reports of global shoulder pain with light touch was an indication of symptom magnification. He also noted that the claimant did not report any pain over the AC joint or associated with the acromion.

¶ 48 Dr. Balaram reviewed the July 23, 2019, MRI images of the claimant's right shoulder. He did not see any issues with the quality of resolution. He opined that the MRI images showed postsurgical changes without evidence of significant pathology. Dr. Balaram also reviewed the

films of the October 24, 2019, right shoulder MRI. He opined that these images showed that the claimant's labrum, subscapularis, and the previously tenodesed biceps tendon were all intact, and there was no evidence of re-tear of the rotator cuff. He did not observe spurring of the undersurface of the acromion. Dr. Balaram agreed with the radiologist that the area that would impinge or cause impingement on the rotator cuff had been properly resected during the November 20, 2018, surgery. Dr. Balaram found no evidence of impingement, and he opined that the claimant's complaints were not suggestive of impingement. He found no evidence of a small edge on the front of the acromion, and no evidence of tearing. He opined that the fluid filling the undersurface of the claimant's collarbone was a normal post-operative change.

¶ 49 Dr. Balaram stated that, when he re-examined the claimant on January 21, 2020, he did not see much change in the claimant's condition from the prior examination. Both examinations showed a healed rotator cuff repair. Dr. Balaram examined the claimant's right bicep, forearm, wrist, and fingers, as well as her cervical spine. The left and right cervical paracervical muscles were tender to palpation. Dr. Balaram found the left shoulder, elbow, and wrist to be within normal limits.

¶ 50 Dr. Balaram opined that further surgical intervention was not warranted because the changes on the MRI were consistent with post-surgical changes and the claimant's complaints were inconsistent with any anatomical condition amenable to surgical intervention. In Dr. Balaram's opinion, the claimant's reports of pain did not accord with any objective findings or imaging, and there was no indication that surgery or some other treatment would make her better. Dr. Balaram concluded that the claimant was at MMI and that no further surgery or other treatments were warranted.

¶ 51 Dr. Balaram further opined that, given the lack of objective findings associated with her

right shoulder, the claimant was able to return to work without restrictions. He noted that the claimant's subjective complaints did not follow an anatomical or physiological distribution or correlate with a medical need for specific restrictions. Dr. Balaram reiterated that the claimant's strength and range of motion testing showed no evidence of continued impingement or re-rupture of the rotator cuff.

¶ 52 On cross-examination, Dr. Balaram agreed that persistent shoulder pain with persistent impingement can be can be indications for surgical intervention, and he acknowledged that Dr. Thorsness had repeatedly documented positive impingement signs, such as a positive Hawkins test. Dr. Balaram further acknowledged that a patient's positive response to a cortisone injection can support a decision to perform surgery.

¶ 53 On redirect examination, Dr. Balaram testified that, although the claimant told him that the cortisone injection she received in November of 2019 might have helped a little bit, there was no clear indication that the injection provided sufficient relief to warrant surgical intervention. He further testified that the radiologist's abnormal findings are explained by the claimant's prior surgery that changed the anatomy of the shoulder. Dr. Balaram stated that the MRI findings, the physical examination findings, and the claimant's symptoms did not line up. He noted that the claimant's complaints of pain were out of proportion with the MRI and the physical examination. For that reason, and because he found no evidence or orthopedic pathology to be addressed surgically, Dr. Balaram did not recommend surgical intervention.

¶ 54 The claimant testified that she had never injured her right shoulder or received treatment for her right shoulder prior to her work accident. From the time she started working for the employer in May of 2016 through her accident on July 21, 2018, she performed her full work duties as a laborer without any problem.

¶ 55 The claimant acknowledged she was evaluated twice by Dr. Balaram, on May 28, 2019, and January 21, 2020. She testified that she informed Dr. Balaram of her symptoms and cooperated with his evaluations. However, she testified that Dr. Balaram never examined her upper extremities or her cervical spine. She claimed that he did not evaluate her right shoulder, right elbow, or left upper extremity. Nor did he test the range of motion in her shoulder. The claimant claimed that Dr. Balaram did not examine her at all. He only asked her where it hurt. She testified that Dr, Balaram spent "like five minutes" with her.

¶ 56 The claimant further testified that she has continued treating with Dr. Thorsness. She saw him four times between February 3, 2020, and July 20, 2020. The medical records of those visits reflect that the claimant reported progressing right shoulder symptoms with significant pain and dysfunction which limited her ability to perform activities of daily living. The records further indicate that Dr. Thorsness continued to recommend that the claimant undergo revision surgery on her right shoulder.

¶ 57 The claimant stated that she continues to experience pain in her right shoulder which impacts "everything," including her ability to perform activities of daily life and to play with her children.

¶ 58 The arbitrator found that the claimant had failed to prove that the current condition of ill-being in her right shoulder is causally connected to her July 21, 2018, work accident. The arbitrator did not find Dr. Thorsness's medical opinions, diagnoses, or surgical recommendation to be persuasive. The arbitrator noted that the conflicting medical opinions in the case were based on differing interpretations of the clinical examination findings, MRI imaging, and, in large part, the reliability of the claimant's subjective complaints. He found the opinions of Drs. Goldberg and Balaram to be more persuasive than those of Dr. Thorsness.

¶ 59 The arbitrator stressed that Dr. Goldberg and Dr. Balaram both found that the claimant's subjective complaints were inconsistent with objective clinical findings, and Dr. Balaram found that her complaints were nonanatomic and non-dermatomal.

¶ 60 The arbitrator also noted that both Dr. Thorsness and Dr. Balaram observed that the claimant was highly emotional during various examinations. The arbitrator found that this detracted from the accuracy of her reporting of her complaints and her condition. The arbitrator further found that Dr. Thorsness's opinion lacked reliability because of his misplaced reliance on the accuracy of the claimant's reporting.

¶ 61 The claimant appealed the arbitrator's decision to the Commission. The Commission affirmed the arbitrator's decision with certain modifications. The Commission found that the claimant had reached MMI as of June 5, 2019, and ruled that the claimant was not entitled to TTD benefits after that date. It therefore modified the period of TTD to July 27, 2018, through June 5, 2019. The Commission further found that the employer was not required to pay for treatments the claimant underwent at Hinsdale Orthopedics because such treatments were outside the chain of referrals. The Commission affirmed and adopted the arbitrator's decision in all other respects.

¶ 62 Commissioner Tyrrell dissented. He believed that the evidence established that the claimant's ongoing right shoulder condition is causally related to her July 21, 2018, work injury. In Commissioner Tyrrell's opinion, the factual and medical evidence establish that the claimant has not yet reached MMI and requires further treatment as recommended by Dr. Thorsness.

¶ 63 Commissioner Tyrrell credited Dr. Thorsness's testimony that the MRI findings were consistent with the claimant's subjective complaints. He further noted that the defendant obtained some relief from the injections which, according to Dr. Thorsness, suggested that

surgery was appropriate. Commissioner Tyrrell also stressed that, throughout her treatment with Dr. Thorsness, the claimant exhibited objective signs of impingement in the right shoulder both in the MRI images and during the Hawkins and Meer tests.

¶ 64 Commissioner Tyrrell disagreed with the Commission majority's finding that the claimant's complaints were unreliable and conflicted with the MRI images and with other objective findings. He noted that, although Dr. Thorsness agreed that the claimant was an emotional person who may display some element of symptom magnification, Dr. Thorsness opined that the claimant's symptoms correlated with MRI findings, his physical examination, and the claimant's substantial improvement from the cortisone injection. Dr. Thorsness noted that most patients who fabricate their symptoms do not report substantial improvement from an injection. Commissioner Tyrrell concluded that the claimant's complaints of ongoing pain and other symptoms were credible and were corroborated by the medical records and expert testimony. He also found that Dr. Thorsness had supported his treatment plan with objective findings, without reliance on the claimant's subjective reports.

¶ 65 Commissioner Tyrrell also found it significant that Dr. Balaram: (1) agreed that the May 3, 2019, work conditioning progress report indicated the claimant was not able to perform the physical capabilities of a laborer; (2) agreed that an FCE remains an appropriate option at this point; (3) conceded that if a patient experiences pain relief from a cortisone injection, it can support a surgical recommendation; and (4) conceded that the claimant had temporarily experienced complete relief from a cortisone injection. Based on this, Commissioner Tyrell found Dr. Balaram's opinion that surgery is not necessary to cure the effects of the claimant's work injury to be unpersuasive. Accordingly, Commissioner Tyrrell would have reversed the arbitrator's decision in its entirety.

¶ 66 The claimant sought judicial review of the Commission's decision in the circuit court of Cook County, which confirmed the Commission's ruling. The employer moved to strike certain portions of the claimant's briefs that referenced facts outside the record. The circuit court denied the motion but stated that it would not consider allegations of fact not contained in the administrative record. The court further noted that the claimant had been represented by counsel during the arbitration and commission proceedings and the record contained no indication that that there was additional evidence that was to be presented or should have been presented.

¶ 67 Turning the merits, the circuit court held that the Commission's finding that the claimant had failed to prove her current condition of ill-being is causally related to her work accident was not against the manifest weight of the evidence. It also rejected the claimant's claim that the Commission had abused its discretion.

¶ 68 This appeal followed.

¶ 69 III. ANALYSIS

¶ 70 As a preliminary matter, we note that the claimant has flagrantly violated the Illinois Supreme Court's rules governing the required contents of briefs on appeal. Rule 342(a) provides that "[t]he appellant's brief shall include, as an appendix, a table of contents to the appendix, the judgment appealed from, any opinion, memorandum, or findings of fact filed or entered by the trial judge or by any administrative agency or its officers, any pleadings or other materials from the record that are the basis of the appeal or pertinent to it, the notice of appeal, and a complete table of contents, with page references, of the record on appeal." Ill. S. Ct. R. 342(a) (eff. Jan. 1, 2005). The claimant has not provided an appendix. Nor has she submitted the decisions of the Commission, the circuit court, or the arbitrator.

¶ 71 The statement of facts contained in the claimant's brief also fails to comply with the

Supreme Court's requirements. Rule 341(h)(6) provides, in pertinent part, that an appellant's statement of facts "shall contain the facts necessary to an understanding of the case, stated accurately and fairly without argument or comment, and with appropriate reference to the pages of the record on appeal[.]" Ill. S. Ct. R. 341(h)(6) (eff. Jan. 1, 2016). The claimant's statement of facts is argumentative and includes almost no citations to the record.

¶ 72 Taken together, these violations of Rules 341 and 342 have made it difficult for us review the record in this case. Our supreme court's rules governing the format and content of appellate briefs are mandatory rules of procedure, not mere suggestions. *Menard v. Illinois Workers' Compensation Comm'n*, 405 Ill. App. 3d 235, 238 (2010); *Szczesniak v. CJC Auto Parts, Inc.*, 2014 IL App (2d) 130636, ¶ 8. The fact that the claimant is acting *pro se* does not relieve her of the obligation to comply with the rules of the Illinois Supreme Court governing appellate procedure and the required content of briefs filed with this court. *Wing v. Chicago Transit Authority*, 2016 IL App (1st) 153517, ¶ 7.

¶ 73 When a party's brief fails to comply with Rule 341(h)(6), we may dismiss the appeal, strike the statement of facts, or disregard the noncompliant portions of the claimant's statement of facts. *In re Marriage of Moorthy and Arjuna*, 2015 IL App (1st) 13207729, ¶ 2, n. 1; *Szczesniak*, 2014 IL App (2d) 130636, ¶ 8. We may also dismiss the appeal where a party's brief fails to follow the requirements set forth in Rule 342(a). *Fender v. Town of Cicero*, 347 Ill. App. 3d 46, 51 (2004). We choose to exercise our discretion and address the issues on their merits. Nevertheless, we admonish the claimant to comply fully with all applicable supreme court rules in any future cases.

¶ 74 Turning to the merits, the claimant argues that the Commission's finding that she failed to prove a causal connection between her current condition of ill-being and her July 21, 2018, work

accident is against the manifest weight of the evidence.

¶ 75 To obtain compensation under the Act, a claimant must prove that some act or phase of his employment was a causative factor in his ensuing injuries. *Land and Lakes Co. v. Industrial Comm'n*, 359 Ill. App. 3d 582, 592 (2005). A work-related injury need not be the sole or principal causative factor, as long as it was *a* causative factor in the resulting condition of ill-being. *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 205 (2003).

¶ 76 In resolving disputed causation issues, it is the Commission's province to assess the credibility of witnesses, draw reasonable inferences from the evidence, determine what weight to give testimony, and resolve conflicts in the evidence (particularly the medical opinion evidence). *Hosteny v. Illinois Workers' Compensation Comm'n*, 397 Ill. App. 3d 665, 675 (2009); *Fickas v. Industrial Comm'n*, 308 Ill. App. 3d 1037, 1041 (1999). We will overturn the Commission's causation finding only when it is against the manifest weight of the evidence. *Shafer v. Illinois Workers' Compensation Comm'n*, 2011 IL App (4th) 100505WC, ¶ 38. 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).

¶ 77 In reviewing the Commission's decision, will not reweigh the evidence, or reject reasonable inferences drawn from it by the Commission, simply because other reasonable inferences could have been drawn. *Id.* The test is whether the evidence is sufficient to support the Commission's finding, not whether this court or any other tribunal might reach an opposite conclusion. *Pietrzak v. Industrial Comm'n*, 329 Ill. App. 3d at 828, 833 (2002).

¶ 78 In this case, there is ample evidence to support the Commission's causation finding. Dr. Balaram opined that the claimant had reached MMI by June 5, 2019, and that her current

condition of ill-being is not causally related to the work accident. He based this conclusion, in part, on his interpretation of the MRI images and other objective findings. Dr. Balaram also relied on evidence that the claimant was fabricating or magnifying her symptoms, including his finding that the claimant's complaints of pain were nonanatomic and non-dermatomal and did not line up with the MRI images. Dr. Balaram's causation opinion was corroborated in material respects by the radiologist who interpreted the October 24, 2019, MRI images and by Dr. Goldberg, who found the results of the July 23, 2019, MRI to be unremarkable except for some tendinitis and a humeral cyst and found that the claimant's subjective complaints were inconsistent with the July 23, 2019, MRI results. Although Dr. Thorsness reached a different conclusion, it is the Commission's province to resolve conflicts in the medical opinion evidence and to determine the weight to assign each opinion. The Commission was entitled to credit Dr. Balaram's and Dr. Goldberg's opinions of those of Dr. Thorsness.

¶ 79 Accordingly, we affirm the Commission's finding that the claimant's current condition of ill-being is not causally related to the July 21, 2018, work accident, its denial of TTD after June 5, 2019, and its denial prospective medical care, including the surgery recommended by Dr. Thorsness.

¶ 80 The claimant argues that Dr. Goldberg agreed with Dr. Thorsness that the claimant was not at MMI in June of 2019, as Dr. Balaram claimed. The claimant bases this argument on Dr. Goldberg's June 21, 2019, medical record, wherein Dr. Goldberg stated that he believed there may be an abnormality in the claimant's right shoulder given the swelling in the shoulder and the claimant's report of continuing pain. However, Dr. Goldberg changed his opinion after he reviewed the July 23, 2019, MRI and concluded that the claimant's subjective complaints did not correlate with the MRI findings.

¶ 81 The claimant notes that Dr. Balaram conceded that improvement from a cortisone injection can indicate the need for surgery. Because the claimant obtained temporary relief from such an injection, she argues that Dr. Balaram's opinion that further surgery was not warranted is baseless and unworthy of credence. We disagree. On redirect examination, Dr. Balaram testified that, although the claimant told him that the injection she received in November of 2019 might have helped a little bit, there was no clear indication that the injection provided sufficient relief to warrant surgical intervention. The Commission was entitled to credit that testimony.

¶ 82 The claimant further argues that Dr. Balaram was unqualified to offer an expert opinion on the claimant's shoulder condition. The claimant did not challenge Dr. Balaram's qualifications before the Commission. Therefore, she may not do so now. *Carter v. Illinois Workers' Compensation Comm'n*, 2014 IL App. (5th) 130151WC, ¶ 32 ("Issues or defenses not raised before the Commission are deemed forfeited and will not be considered upon judicial review."). In any event, Dr. Balaram is a board-certified orthopedic surgeon who specializes in upper extremities, including shoulders. He is therefore eminently qualified to offer expert opinions regarding the claimant's shoulder condition and any related causation issues.

¶ 83 Finally, we note that the claimant has attached documents to her brief that are outside the record. Several of her arguments are based on these documents or on other documents or statements that were not presented during the arbitration proceedings. We have disregarded all such materials and any arguments based on them.

¶ 84 IV. CONCLUSION

¶ 85 For the foregoing reasons, we affirm the judgment of the circuit court of Cook County, which confirmed the Commission's decision.

¶ 86 Affirmed.