NO. COA12-1212
NORTH CAROLINA COURT OF APPEALS

Filed: 17 December 2013

TONY C. MOORE,
Employee,
Plaintiff,

v.

THE GOODYEAR TIRE
& RUBBER CO.,
Employer,
LIBERTY MUTUAL INSURANCE GROUP,
Carrier,
Defendants.

North Carolina
Industrial Commission
I.C. No. W25564

Appeal by defendants from opinion and award entered 23 May 2012 by the North Carolina Industrial Commission. Heard in the Court of Appeals 12 March 2013.

Law Offices of Kathleen G. Sumner, by Kathleen G. Sumner, for plaintiff-appellee.

Hedrick Gardner Kincheloe & Garofalo, LLP, by M. Duane Jones, Matthew J. Ledwith, and Lindsey L. Smith, for defendants-appellants.

GEER, Judge.

Defendants The Goodyear Tire & Rubber Co. and Liberty Mutual Insurance Group appeal from an opinion and award of the

Industrial Commission awarding plaintiff Tony C. Moore ongoing total disability compensation and medical expenses for left hip and back injuries that the Commission determined were causally-related to plaintiff's admittedly compensable 6 March 2008 workplace accident. Defendants primarily contend on appeal that the testimony of plaintiff's experts was insufficient to support the Commission's causation findings. We disagree and, therefore, affirm.

Facts

At the time of the hearing, plaintiff was 49 years old and had been employed with Goodyear since 8 July 1991. Plaintiff's duties included lifting rubber to put on the conveyor belt and watching the mixing time. On 6 March 2008, plaintiff was walking out of an office at Goodyear's plant when he was struck by a moving forklift. The forklift hit plaintiff on his left side, spun him around, and knocked him to the ground, with plaintiff landing on his left leg. Following the accident, both plaintiff's left shoulder and left side bothered him, although his shoulder was the more significant injury. Plaintiff was seen that day at Goodyear's on-site clinic and released to go back to his regular work duties.

Following the accident, plaintiff continued to work in his regular position, taking four to six tablets of Tylenol during

the day for pain. One or two months after the accident, plaintiff was experiencing pain in his low back, and the pain in his left leg began to increase. Plaintiff did not report his left leg or low back pain at that time because he wanted to keep working and was hopeful that the pain would go away.

On 12 July 2008, plaintiff again went to Goodyear's on-site clinic and reported left shoulder and arm pain related to his previous injury. He was given Tylenol and topical pain cream, as well as assigned temporary light duty work restrictions. Plaintiff did not complain about the left leg and back pain he was experiencing at the time because he "figured that it was just a . . . little bump" and that it was "going to be alright." When plaintiff returned to the clinic on 16 July 2008, he was seen for elbow and arm pain, prescribed Medrol and Flexeril, and given light duty work restrictions for one week.

On 14 January 2009, plaintiff was again treated at Goodyear's on-site clinic. At this visit, in addition to plaintiff's left shoulder and arm pain, plaintiff also reported experiencing left leg pain that he described as stabbing pain running down his left leg to the front of his thigh. Plaintiff also indicated that the area became numb on occasion. Plaintiff again reported to Goodyear's on-site clinic on 29 January 2009 complaining of pain and numbness in his left leg that prevented

him from sleeping at night and that had intensified over the previous two weeks. The clinic's notes for that visit indicate that the pain in plaintiff's leg had begun approximately three weeks after his injury on 6 March 2008 and had continued intermittently thereafter. Plaintiff was prescribed physical therapy for his left leg and hip that was provided at Goodyear's plant. On 2 February 2009, plaintiff reported continued severe pain and numbness in his left leg and hip. Notes from that visit indicated that he was to be referred to an orthopedic specialist, and a change in job status would be sought to limit his standing and walking.

On 17 April 2009, plaintiff saw Dr. Christopher J. Barnes of Fayetteville Orthopaedics on a referral from Goodyear's on-site clinic. Plaintiff reported experiencing left lower extremity pain and numbness and left upper extremity pain since the time of his accident. Dr. Barnes, however, only examined plaintiff's left arm and shoulder condition. Dr. Barnes recommended plaintiff continue taking Flexeril, work in a light duty position, and receive physical therapy for his left shoulder.

Plaintiff returned to Dr. Barnes on 11 May 2009 and reported continued significant left shoulder pain. Dr. Barnes ordered an MRI and ordered plaintiff to continue with his light

duty work restrictions until the results of the MRI were obtained. Plaintiff went out of work for his compensable shoulder condition on 20 May 2009. Prior to that date, plaintiff had not missed any work time due to his injury.

On 29 May 2009, plaintiff met with Dr. Barnes to review the results of his MRI. The MRI showed impingement and AC joint arthrosis, as well as tearing of the biceps tendon. Given the results of the MRI, Dr. Barnes decided plaintiff needed shoulder surgery, which Dr. Barnes performed on 9 June 2009. Dr. Barnes released plaintiff to return to work on 1 February 2010 with respect to his left shoulder problem.

Goodyear filed a Form 60 on 19 June 2009 accepting plaintiff's claim for his left shoulder injury. On 4 August 2009, however, plaintiff filed a Form 18 claiming injuries to his left hand, leg, and back. On 10 September 2010, plaintiff filed an amended Form 18 in which he claimed an additional injury to his left hip. He then filed an amended Form 33 on 13 September 2010 asserting an additional injury to his left hip.

Meanwhile, plaintiff was seen by Dr. David S. Jones on 11 September 2009 for his left hip, left leg, and low back complaints. MRIs of plaintiff's left hip and low back confirmed that plaintiff had significant arthritis in his left hip joint.

Dr. Jones recommended that plaintiff return to Dr. Barnes for recommendations on treatment of his left hip joint.

An MRI of plaintiff's lumbar spine revealed spinal stenosis that was severe at L3-4 and L4-5 and moderate at L5-S1, as well as broad-based disc herniations at multiple levels. Dr. Jones discussed the possibility of epidural steroid injections and believed that plaintiff would require surgical decompression of the lumbar spine. On 1 December 2009, plaintiff returned to Dr. Jones and reported that his condition had gotten worse. Plaintiff was then walking with a more flexed posture. Dr. Jones operated on plaintiff on 17 December 2009, performing a decompressive lumbar hemilaminectomy with sublaminar decompression and microdiscectomies at L3-4 and L4-5. Following the surgery, Dr. Jones wrote plaintiff out of work entirely.

On 3 May 2010, plaintiff had been released from physical therapy and reported that he was doing better, but based upon plaintiff's description of his job duties, Dr. Jones was concerned about plaintiff's returning to his prior work. Plaintiff returned to see Dr. Jones on 27 September 2010 and reported that his low back pain was worsening and that he was experiencing pain and numbness in his left leg again. An MRI taken on 24 September 2010 showed disc protrusions at L3-4 and L5-S1 and a bulging disc at L4-5. Dr. Jones referred plaintiff

to Dr. Albert Bartko for epidural steroid injections, which provided plaintiff with relief from his lower back symptoms.

On 29 October 2010, plaintiff saw Dr. Frank V. Aluisio, a board certified orthopedic surgeon, for evaluation of his left hip pain. Based upon x-rays and his physical examination of plaintiff, Dr. Aluisio diagnosed plaintiff with severe arthritis in his left hip, and recommended plaintiff have a hip replacement. Dr. Aluisio performed hip replacement surgery on plaintiff's left hip on 31 January 2011.

On 18 January 2011, the deputy commissioner conducted a hearing on the issues whether plaintiff's low back and left hip injuries were compensable and issued an opinion and award determining that those injuries were compensable on 27 October 2011. Defendants appealed to the Full Commission, which affirmed the deputy commissioner's opinion and award with minor modifications.

In an opinion and award filed 23 May 2012, the Full Commission found that plaintiff "aggravated his pre-existing low back and left hip conditions as a consequence of his March 6, 2008 accident, resulting in the conditions which Dr. Jones and Dr. Aluisio treated." Because "the aggravation of [plaintiff's] pre-existing low back and left hip conditions [was] causally related to his March 6, 2008 injury by accident" and because

plaintiff "has been completely written out of work in connection with his compensable low back and left hip conditions since December 17, 2009," the Commission awarded plaintiff ongoing temporary total disability compensation for the period 17 December 2009 and continuing until plaintiff returns to work or further order of the Commission. The Commission also ordered defendants to pay for plaintiff's past and future medical treatment for plaintiff's low back and left hip conditions. Defendants timely appealed to this Court.

Discussion

"[A]ppellate review of an award from the Commission is generally limited to two issues: (1) whether the findings of fact are supported by competent evidence, and (2) whether the conclusions of law are justified by the findings of fact." *Johnson v. S. Tire Sales & Serv.*, 358 N.C. 701, 705, 599 S.E.2d 508, 512 (2004). With respect to the findings of fact, this Court "'does not have the right to weigh the evidence and decide the issue on the basis of its weight. The court's duty goes no further than to determine whether the record contains any evidence tending to support the finding.'" *Deese v. Champion Int'l Corp.*, 352 N.C. 109, 115, 530 S.E.2d 549, 552 (2000) (quoting *Adams v. AVX Corp.*, 349 N.C. 676, 681, 509 S.E.2d 411, 414 (1998)). "[T]his Court is bound by such evidence, even

though there is [other] evidence that would have supported a finding to the contrary." *Porterfield v. RPC Corp.*, 47 N.C. App. 140, 144, 266 S.E.2d 760, 762 (1980).

Moreover, the Commission is "'the sole judge of the credibility of the witnesses and the weight to be given their testimony.'" *Melton v. City of Rocky Mount*, 118 N.C. App. 249, 255, 454 S.E.2d 704, 708 (1995) (quoting *Hilliard v. Apex Cabinet Co.*, 305 N.C. 593, 595, 290 S.E.2d 682, 683-84 (1982)). For this reason, the Commission "may, of course, properly refuse to believe particular evidence. It may accept or reject all or part of the testimony of . . . any . . . witness, and need not accept even uncontradicted testimony." *Pitman v. Feldspar Corp.*, 87 N.C. App. 208, 216, 360 S.E.2d 696, 700 (1987) (internal citation omitted).

I

Defendants challenge the Commission's finding that "[p]laintiff first experienced pain in his left leg immediately following the accident and that this pain increased over time." This finding is supported by plaintiff's written employee statement from the day of the accident.

In response to the requirement on the form that plaintiff "[l]ist every part of your body that was injured in the accident or which is experiencing pain[,]" plaintiff wrote "[l]eft side."

When asked at the hearing before the deputy commissioner to clarify what he meant by "left side," plaintiff explained that this included his left leg, testifying: "Left side pain was like when the truck hit me, it spent my body around and took this leg and kind of pulled it. So, that's why I'm considering the left side."

Defendants, however, point to inconsistencies in plaintiff's testimony regarding when he first began to have low back and hip pain. Specifically, defendants note that during plaintiff's testimony, plaintiff identified four periods of time in which the pain began. Defendants argue that the Commission should not have ignored plaintiff's direct testimony.

Defendants' argument fails to consider the proper standard of review. As the trier of fact, the Commission was free to give greater weight to plaintiff's contemporaneous statements rather than those he made later, and a judgment as to which statements were entitled to greater weight is not reviewable on appeal.

We also note that the Commission's decision to give more weight to plaintiff's written statement is bolstered by Dr. Jones' testimony when asked about the inconsistencies regarding when plaintiff's left leg pain started:

> He doesn't really complain a whole lot, and when he comes in, even when you can tell

> he's hurting, he's a pretty smiley, happy guy, but he's vague in his symptoms.
>
> I mean, it didn't surprise me at all to see that sheet that said "Where do you hurt?" and it just said "left side" because those are the types of things you have to drag out of [plaintiff]. . . .
>
> . . . .
>
> . . . He's a little bit vague in his symptoms, and that's part of the reason it's hard to tease out of him what's hip pain, what's leg pain, what's back pain. And he's just not a real focused or thorough historian, and you'd have to drag that information out of him.
>
> So, you know, reading through physical therapist notes or nurse practitioner's notes or P.A.'s notes and they mention only shoulder pain didn't surprise me a whole lot because he was there for his shoulder and arm, and I know that's what they asked him about, and they didn't go "Well, hey, man, how's your left ankle? How's your left shin? Are you having pain there?" And if they did, they might have gotten a different answer from him.

Dr. Jones' testimony shows that the inconsistencies in plaintiff's testimony regarding when his pain began may be better explained by plaintiff's tendency not to complain about pain unless it is severe and by examining the specificity of questions being asked and the context in which the answers were given. Because competent evidence supports the Commission's finding that plaintiff first experienced pain in his left leg

immediately following the accident and that pain increased over time, the finding is binding on appeal.

II

Defendants next contend that there is no competent evidence in the record to support the Commission's conclusion that plaintiff's 6 March 2008 injury by accident aggravated plaintiff's pre-existing low back and left hip conditions and that those conditions were, therefore, compensable. As our Supreme Court has explained, "[w]hen a pre-existing, *nondisabling, non-job-related* condition is aggravated or accelerated by an accidental injury arising out of and in the course of employment . . . so that disability results, then the employer must compensate the employee for the entire resulting disability even though it would not have disabled a normal person to that extent." *Morrison v. Burlington Indus.*, 304 N.C. 1, 18, 282 S.E.2d 458, 470 (1981). In making the determination whether a workplace injury exacerbated a pre-existing condition, the key question is whether the work-related accident "'contributed in some reasonable degree' to plaintiff's disability." *Hoyle v. Carolina Associated Mills*, 122 N.C. App. 462, 466, 470 S.E.2d 357, 359 (1996) (quoting *Kendrick v. City of Greensboro*, 80 N.C. App. 183, 186, 341 S.E.2d. 122, 123 (1986)).

It is well established that complex questions of causation require expert testimony. *See Click v. Pilot Freight Carriers, Inc.*, 300 N.C. 164, 167, 265 S.E.2d 389, 391 (1980) ("[W]here the exact nature and probable genesis of a particular type of injury involves complicated medical questions far removed from the ordinary experience and knowledge of laymen, only an expert can give competent opinion evidence as to the cause of the injury."). Here, the Commission based its findings regarding causation upon the testimony of two experts, Drs. Jones and Aluisio.

Dr. Jones testified that he first met with plaintiff in September 2009. Based on his physical examination of plaintiff and review of plaintiff's x-rays and MRIs, Dr. Jones concluded that plaintiff had "significant arthritis in the hip" and spinal stenosis. Dr. Jones explained that spinal stenosis is a slow degenerative condition which remains asymptomatic until reaching a critical point, often as a result of some inciting event. Dr. Jones continued: "[A]nd that's what I'm assuming happened here with [plaintiff] because he explained that he didn't have these problems before this fall and then, after this fall, all of a sudden he's got symptoms."

Dr. Jones explained further that it is not uncommon, absent some inciting event, that a patient would have spinal stenosis

through 85 or 90 years of age without symptoms. Dr. Jones concluded that "unfortunately, [plaintiff] had an inciting event which caused his spinal stenosis, which would have become symptomatic at some point in his life because he was so young at the time, but it took it from an asymptomatic condition for him into a symptomatic condition . . . ."

Dr. Aluisio testified that he had first seen plaintiff on 29 October 2010. Dr. Aluisio took plaintiff's history and reviewed x-rays of plaintiff's hip. He determined that plaintiff had severe arthritis in his hip and needed a hip replacement. Dr. Aluisio believed that arthritis pre-dated the accident, but that the accident could have aggravated the hip condition causing it to become symptomatic.

Both Dr. Jones and Dr. Aluisio were presented with a hypothetical question which assumed that after being hit with the forklift, plaintiff had immediate pain in his left hip and leg that increased over time. In response, each doctor testified to at least a reasonable degree of medical certainty that the accident exacerbated or aggravated plaintiff's pre-existing condition.

Dr. Jones further testified that if plaintiff's pain started after July 2008 he would probably change his opinion that plaintiff's low back condition was related to the 6 March

2008 accident. However, Dr. Jones also testified that plaintiff had told him that he had pain shortly after the accident. On the other hand, Dr. Aluisio testified that even if the Commission were to find that plaintiff's symptoms had only begun after 12 July 2008, he believed that would still be a reasonable timespan for the exacerbation of plaintiff's hip condition to have been caused by his 6 March 2008 accident. Dr. Aluisio's opinion was based upon plaintiff's not having reported any symptoms relating to his left hip before the 6 March 2008 accident as well as the mechanism of injury.

Defendants, citing *Thacker v. City of Winston-Salem*, 125 N.C. App. 671, 675-76, 482 S.E.2d 20, 23 (1997), first argue that Dr. Jones' testimony in response to the hypothetical was not competent because it was based on assumptions not supported by the record. Specifically, the hypothetical question assumed that plaintiff's left leg pain occurred immediately after the accident.

In *Thacker*, the expert witness specifically testified that he could not give an opinion on whether the accident aggravated the plaintiff's pre-existing condition. *Id.* at 675, 482 S.E.2d at 23. The expert was then asked to give an opinion based on a hypothetical scenario that assumed, without basis, that the plaintiff's head had hit the roof of his car during the accident

-- a fact the Court noted was contradicted by other medical evidence in the record. *Id.* at 675-76, 482 S.E.2d at 23. The expert witness' opinion in response to the unsupported hypothetical was not competent evidence. *Id.* at 671, 482 S.E.2d at 23.

Here, unlike *Thacker*, the Commission found the existence of the assumed facts -- that plaintiff experienced left leg pain immediately after the accident. Since we have already held that this finding was supported by competent evidence, Dr. Jones' opinion in response to plaintiff's counsel's hypothetical question was competent evidence supporting the Commission's decision.

Defendants next contend that Dr. Jones' and Dr. Aluisio's testimony did not constitute competent evidence because in each instance, the testimony was based on the fallacy of *post hoc ergo propter hoc*. Our Supreme Court has observed:

> The maxim *post hoc, ergo propter hoc*, denotes the fallacy of . . . confusing sequence with consequence, and assumes a false connection between causation and temporal sequence. As such, this Court has treated the maxim as inconclusive as to proximate cause. This Court has also held that [i]t is a settled principle that the law looks to the immediate and not the remote cause of damage, the maxim being *Causa proxima, sed non remota spectatur. In a case where the threshold question is the cause of a controversial medical condition*,

> *the maxim of post hoc, ergo propter hoc, is not competent evidence of causation.*

Young v. Hickory Bus. Furn., 353 N.C. 227, 232, 538 S.E.2d 912, 916 (2000) (emphasis added) (internal citations and quotation marks omitted).

In *Young*, the plaintiff was diagnosed with fibromyalgia, which she contended was related to a workplace injury. *Id.* at 229, 538 S.E.2d at 914. The Supreme Court noted that fibromyalgia is a controversial medical condition, and an expert witness testified that it is of "unknown etiology." *Id.* at 231, 538 S.E.2d at 915. The Court held that the plaintiff's expert's opinion as to what caused the plaintiff's fibromyalgia was based on speculation because even though the expert had identified multiple potential causes of the plaintiff's fibromyalgia other than the workplace injury, he did not investigate those potential causes or perform any testing to determine the cause. *Id.* Instead, the expert relied solely on the fact that the plaintiff's condition had arisen after her accident to establish causation. *Id.* at 232, 538 S.E.2d at 916. Our Supreme Court held that this testimony was not sufficient evidence of causation. *Id.* at 233, 538 S.E.2d at 917.

Here, in contrast to *Young*, plaintiff's condition was not controversial. Moreover, neither Dr. Jones nor Dr. Aluisio relied solely upon temporal proximity to establish causation as

to a controversial condition that could have had multiple causes. Instead, each witness acknowledged that the condition at issue pre-existed the workplace accident and explained the precise mechanism by which the accident likely aggravated the existing condition. Under these circumstances, Dr. Jones' and Dr. Aluisio's opinions constitute competent evidence. *See, e.g., Legette v. Scotland Mem'l Hosp.*, 181 N.C. App. 437, 456, 640 S.E.2d 744, 757 (2007) (concluding that expert testimony did not violate *Young* when witness testified that the workplace accident aggravated plaintiff's non-controversial condition, and "no other potential causes for the aggravation of Plaintiff's preexisting, but unsymptomatic [condition] were identified").

Defendants also point to *Cooper v. BHT Enters.*, 195 N.C. App. 363, 672 S.E.2d 748 (2009). In *Cooper*, however, in contrast to this case, the Commission had found that the plaintiff failed to prove that her neck pain was causally related to her workplace injury. *Id.* at 373-74, 672 S.E.2d at 756. On appeal, this Court first upheld as supported by competent evidence the Commission's finding that the plaintiff did not report any neck pain until six months after the work-related fall. *Id.* at 373, 672 S.E.2d at 756. The Court then noted that the expert witnesses on whom the plaintiff relied for causation had each testified that they could not testify to a

reasonable degree of medical certainty that the fall caused the neck pain if the plaintiff did not report neck pain until six months later. *Id.* The Court then concluded: "Since we have already concluded that there was competent evidence to support the Commission's finding that plaintiff did not report having ongoing neck pain during the six months following her work-related fall, we must also conclude that there was competent evidence to support the Commission's determination that the testimony of [the two expert witnesses] could not support a finding, within a reasonable degree of medical certainty, that plaintiff's cervical back condition was causally related to her work-related fall." *Id.* The Court, therefore, affirmed the Commission's denial of the plaintiff's neck injury claim. *Id.* at 373-74, 672 S.E.2d at 756.

Here, of course, the Commission did not deny the claim, but rather granted compensation. In contrast to *Cooper*, the Commission found that plaintiff did experience pain immediately and, in addition, Dr. Jones and Dr. Aluisio expressed opinions to a reasonable degree of medical certainty that the accident did aggravate plaintiff's pre-existing conditions. The finding and the testimony are competent evidence to support the Commission's further finding that the accident aggravated the pre-existing conditions. Thus, as in *Cooper*, the Commission's

findings and conclusions are supported by competent evidence. Under our standard of review, we are required to affirm the Commission's decision, just as this Court was required to affirm in *Cooper*.

Finally, defendants contend that Dr. Aluisio's testimony is insufficient to support the Commission's award because he testified that the accident "could" have aggravated the hip condition. As this Court explained in *Cannon v. Goodyear Tire & Rubber Co.*, 171 N.C. App. 254, 264, 614 S.E.2d 440, 446-47 (2005) (internal citations and quotation marks omitted):

> [O]ur Supreme Court has created a spectrum by which to determine whether expert testimony is sufficient to establish causation in worker's compensation cases. Expert testimony that a work-related injury "could" or "might" have caused further injury is insufficient to prove causation when other evidence shows the testimony to be a guess or mere speculation. However, when expert testimony establishes that a work-related injury "likely" caused further injury, competent evidence exists to support a finding of causation.

Defendants point to excerpts of evidence from Dr. Aluisio in which he stated only that the accident "could" have aggravated plaintiff's condition and argue that his testimony, therefore, was insufficient to support a finding of causation. In his notes, Dr. Aluisio wrote that "[w]ith the extent of arthritis that he has in that hip, I doubt that the accident

caused the arthritis to develop, but *could* have exacerbated the pain associated with the arthritis." (Emphasis added.) Dr. Aluisio similarly testified: "I'm sure he had the arthritis before, but he told me -- and I have to base it on what he told me -- that he did not have symptoms prior to the accident, so the accident *could* have made it become symptomatic." (Emphasis added.)

However, in response to plaintiff's counsel's hypothetical question describing the events during the workplace accident, Dr. Aluisio testified "within a reasonable degree of medical certainty" that "they aggravated or exacerbated. Didn't cause, but aggravated" plaintiff's hip condition. Dr. Aluisio then went on to explain, in support of that opinion, that plaintiff's being hit by the forklift "was definitely a type of trauma that could exacerbate a hip problem, based on the mechanism of his injury." We do not read this latter testimony as amounting to "could" or "might" testimony, but rather as appropriately expressing the opinion that the manner in which the injury occurred was capable of causing an exacerbation. Dr. Aluisio's opinion expressed in response to the hypothetical question, including his discussion of the mechanism of the injury, was sufficient to support the Commission's finding of causation.

The remaining instances in which Dr. Aluisio used the word "could" cannot, under our standard of review, be a basis for reversing the Commission. It is well established that it is not "the role of this Court to comb through the testimony and view it in the light most favorable to the defendant, when the Supreme Court has clearly instructed us to do the opposite. Although by doing so, it is possible to find a few excerpts that might be speculative, this Court's role is not to engage in such a weighing of the evidence." *Alexander v. Wal-Mart Stores, Inc.*, 166 N.C. App. 563, 573, 603 S.E.2d 552, 558 (2004) (Hudson, J., dissenting), *rev'd per curiam for reasons in dissenting opinion*, 359 N.C. 403, 610 S.E.2d 374 (2005).

In sum, we hold that plaintiff presented sufficient competent evidence through Drs. Jones and Aluisio that plaintiff's workplace injury aggravated or exacerbated his pre-existing left leg and hip conditions. As defendants make no other argument regarding the Commission's opinion and award, we affirm the decision of the Commission.

Affirmed.

Judges McGEE and DAVIS concur.

Report per Rule 30(e).