

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

ANTHONY MIYOSE,

Claimant,

vs.

ESSENTIA PROTEIN SOLUTIONS,
LTD.,

Employer,

and

EMPLOYERS MUTUAL CASUALTY
COMPANY,Insurance Carrier,
Defendants.

File No. 20011901.01

A P P E A L

D E C I S I O N

Head Notes: 1402.20; 1402.30; 1402.40;
1402.50; 1403.30; 1801;
1803; 2206; 2209; 2501;
2502; 2802; 2907; 5-9998

Claimant Anthony Miyose appeals from an arbitration decision filed on January 18, 2022. Defendants Essentia Protein Solutions, Ltd., employer, and its insurer, Employers Mutual Casualty Company, respond to the appeal. The case was heard on July 1, 2021, and it was considered fully submitted in front of the deputy workers' compensation commissioner on August 6, 2021.

In the arbitration decision, the deputy commissioner found claimant was not a credible witness. The deputy commissioner found claimant failed to carry his burden of proof to establish he sustained a work-related injury on or about August 12, 2020, as alleged. The deputy commissioner found that even if claimant did prove he sustained a work-related injury, the manifestation date for that injury is actually May 6, 2020, rather than August 12, 2020, and the deputy commissioner found that the evidence establishes claimant failed to report the injury within 90 days of May 6, 2020, with the result that this claim is barred by Iowa Code section 85.23. Because the deputy commissioner found against claimant on the issues of causation and compensability, the deputy commissioner found all other issues raised in this matter are moot. The deputy commissioner ordered the parties to pay their own costs of the arbitration proceeding.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant was not a credible witness and in finding claimant failed to prove he sustained a work-related injury as alleged. Claimant asserts the deputy commissioner erred in

finding that the manifestation date for the alleged injury is actually May 6, 2020, rather than August 12, 2020, and claimant asserts the deputy commissioner erred in finding this claim is barred by the 90-day notice requirement of Iowa Code section 85.23. Claimant asserts the deputy commissioner erred in finding all other issues raised in this matter are moot. Claimant asserts the deputy commissioner erred in failing to order defendants to pay claimant's costs of the arbitration proceeding.

Defendants assert on appeal that the arbitration decision should be affirmed in its entirety.

Those portions of the proposed arbitration decision pertaining to issues not raised on appeal are adopted as a part of this appeal decision.

I have performed a de novo review of the evidentiary record and the detailed arguments of the parties, and I reach the same analysis, findings, and conclusions as those reached by the deputy commissioner.

Pursuant to Iowa Code sections 17A.5 and 86.24, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed on January 18, 2022, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis of all the issues raised in the arbitration proceeding. I affirm the deputy commissioner's findings of fact and conclusions of law pertaining to those issues.

I affirm the deputy commissioner's finding that claimant failed to prove he sustained a work-related injury on or about August 12, 2020, as alleged. I affirm the deputy commissioner's finding that even if claimant did prove he sustained a work-related injury, the manifestation date for that injury is actually May 6, 2020, rather than August 12, 2020, and I affirm the deputy commissioner found that the evidence establishes claimant failed to report the injury within 90 days of May 6, 2020, with the result that this claim is barred by Iowa Code section 85.23. Because I affirm the deputy commissioner's finding against claimant on the issues of causation and compensability, I affirm the deputy commissioner's finding that all other issues raised in this matter are moot. I affirm the deputy commissioner's order that the parties pay their own costs of the arbitration proceeding.

While I performed a de novo review, I give considerable deference to findings of fact that are impacted by the credibility findings, expressly or impliedly made, by the deputy commissioner who presided at the arbitration hearing. The deputy commissioner found claimant in this matter was not a credible witness. I find the deputy commissioner correctly assessed claimant's credibility. I find nothing in the record which would cause me to reverse the deputy commissioner's credibility findings. Therefore, I affirm the deputy commissioner's finding that claimant was not a credible witness.

I affirm the deputy commissioner's findings, conclusions and analysis regarding all of the above issues.

ORDER

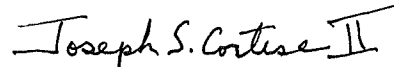
IT IS THEREFORE ORDERED that the arbitration decision filed on January 18, 2022, is affirmed in its entirety.

Claimant shall take nothing from these proceedings.

Pursuant to rule 876 IAC 4.33, the parties shall pay their own costs of the arbitration proceeding, and claimant shall pay the costs of the appeal, including the cost of the hearing transcript.

Pursuant to rule 876 IAC 3.1(2), defendants shall file subsequent reports of injury as required by this agency.

Signed and filed on this 21st day of July, 2022.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

MaKayla Augustine (via WCES)

Aaron Oliver (via WCES)