

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

THELMA CRAWFORD,
a/k/a ROSIE CRAWFORD,

Claimant,

File No. 5068237

vs.

ALL CITY MANAGEMENT,

A P P E A L

Employer,

D E C I S I O N

and

REDWOOD FIRE & CASUALTY,
INSURANCE COMPANY,

Insurance Carrier,

SECOND INJURY FUND OF IOWA,

Head Notes: 1402.40; 1803; 2502; 2701;
2907; 3202; 5-9999

Defendants.

Claimant Thelma Crawford, a/k/a Rosie Crawford, appeals from an arbitration decision filed on September 4, 2020. Defendants All City Management, employer, and its insurer, Redwood Fire & Casualty Insurance Company, and defendant Second Injury Fund of Iowa (the Fund), respond to the appeal. The case was heard on June 9, 2020, and it was considered fully submitted in front of the deputy workers' compensation commissioner on July 7, 2020.

In the arbitration decision, the deputy commissioner found claimant failed to prove she sustained a permanent injury, any permanent functional loss, or any permanent disability of her left knee resulting from claimant's stipulated March 7, 2019, work injury. As a result, the deputy commissioner found claimant failed to prove a second qualifying injury in her claim against the Fund, and the deputy commissioner found claimant is not entitled to receive benefits from the Fund. The deputy commissioner found defendants employer and insurer are liable for the requested past medical expenses totaling \$646.62 itemized in Claimant's Exhibit 6. The deputy commissioner found claimant failed to prove entitlement to alternate medical care. However, the deputy commissioner did find that pursuant to Iowa Code section 85.39, claimant is entitled to reimbursement from defendants employer and insurer for her independent medical evaluation (IME). The deputy commissioner ordered defendants

employer and insurer to pay claimant's costs of the arbitration proceeding in the amount of \$100.00.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant failed to prove she sustained permanent disability of her left leg as a result of the work injury, and claimant asserts the deputy commissioner erred in finding claimant does not have a qualifying claim against the Fund. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to receive benefits from the Fund.

Defendants employer and insurer and the Fund assert on appeal that the arbitration decision should be affirmed in its entirety.

Those portions of the proposed agency 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 decision filed on September 4, 2020, which relate to the issues properly raised on intra-agency appeal with the following brief analysis:

Claimant argues the zero percent impairment rating adopted by the deputy commissioner does not disqualify her claim against the Fund. Claimant seemingly asserts she sustained a permanent disability for purposes of her claim against the Fund without having any permanent functional loss. However, the statute requires that the second qualifying injury be "compensable." Iowa Code section 85.64(1).

Pursuant to the Iowa Legislature's 2017 amendments to Iowa Code Chapter 85, compensability is to be "determined solely by utilizing the guides to the evaluation of permanent impairment, published by the American Medical Association." Iowa Code section 85.34(2)(x) (emphasis added). In fact, "agency expertise shall not be utilized in determining loss or percentage of permanent impairment." Id. By asking this agency to find permanent disability when there is no functional loss, claimant is asking this agency to "utilize agency expertise" to determine "loss or percentage of permanent impairment" contrary to the plain language of section 85.34(2)(x).

As a result, with this brief additional analysis, I affirm the deputy commissioner's finding that claimant failed to prove she sustained a permanent injury, any permanent functional loss, or any permanent disability of her left knee as a result of the March 7, 2019, work injury. I likewise affirm the deputy commissioner's finding that claimant failed to prove a qualifying claim against the Fund.

I affirm the deputy commissioner's finding that defendants employer and insurer are liable for the requested past medical expenses totaling \$646.62 itemized in

Claimant's Exhibit 6. I affirm the deputy commissioner's finding that claimant failed to prove entitlement to alternate medical care. I affirm the deputy commissioner's finding that pursuant to Iowa Code section 85.39, claimant is entitled to reimbursement from defendants employer and insurer for her IME. I affirm the deputy commissioner's order that defendants employer and insurer pay claimant's costs of the arbitration proceeding in the amount of \$100.00.

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

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on September 4, 2020, is affirmed in its entirety.

Claimant shall take no permanent disability benefits from defendants employer and insurer.

Claimant shall take no benefits from the Second Injury Fund of Iowa.

Defendants employer and insurer shall be liable and shall hold claimant harmless for the past requested medical expenses totaling six hundred forty-six and 62/100 dollars (\$646.62), as itemized in Claimant's Exhibit 6.

Pursuant to Iowa Code section 85.39, defendants employer and insurer shall reimburse claimant's independent medical evaluation fee in the amount of three thousand six hundred ninety-four and 00/100 dollars (\$3,694.00).

Pursuant to rule 876 IAC 4.33, defendants employer and insurer shall pay claimant's costs of the arbitration proceeding in the amount of one hundred and 00/100 dollars (\$100.00), 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 employer and insurer shall file subsequent reports of injury as required by this agency.

Signed and filed on this 16th day of March, 2021.

Joseph S. Cortese II

JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Nicholas Shaull (via WCES)

Alison Stewart (via WCES)

Sarah Timko (via WCES)