

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

Gurpreet Sandhu,

Claimant,

vs.

Nordstrom, Inc.,

Self-Insured Employer,

Defendants.

File No. 5046628

RULING ON DEFENDANT'S
APPLICATION FOR REHEARING

FILED
FEB 11 2019
WORKERS' COMPENSATION

On January 24, 2019, the undersigned issued an appeal decision in this case. On February 7, 2019, defendant filed a timely application for rehearing pursuant to Iowa Code section 17A.16 and 876 IAC 4.24. Claimant filed a resistance on February 8, 2019. The application is considered.

In its application for rehearing, defendant contends I should have remanded the case to the deputy commissioner to rule on the extent of claimant's industrial disability because claimant's credibility was in dispute and "[i]t is obvious that the Deputy had serious concerns about the credibility of Claimant's testimony." I disagree. In the arbitration decision, the deputy commissioner did not make a specific finding regarding claimant's credibility. If the deputy commissioner had such obvious and serious concerns about claimant's credibility, the deputy commissioner would have made such a finding in her arbitration decision.

Instead, by rejecting the opinions of Robert Broghammer, M.D., and accepting the opinions of the physicians who believed claimant sustained a work-related injury to her bilateral shoulders, the deputy commissioner implicitly found claimant to be credible. As noted by defendant, I give considerable deference to findings of fact that are impacted by the credibility findings, expressly or impliedly made, of the deputy commissioner who presided at the arbitration hearing. In this case, the deputy commissioner did not raise specific concerns regarding claimant's credibility and instead impliedly found claimant to be credible by rejecting the opinion of Dr. Broghammer. Thus, I reject defendant's assertion that the deputy commissioner had serious concerns about claimant's credibility

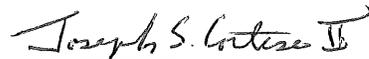
For these reasons, nothing in defendant's application for rehearing convinces me that I erred by deciding the extent of claimant's industrial disability instead of remanding the case back to the deputy commissioner. Therefore, I perceive no factual or legal basis upon which claimant's application for rehearing should be granted.

ORDER

THEREFORE, IT IS ORDERED:

Defendants' application for rehearing is denied.

Signed and filed on this 11th day of February, 2019.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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