

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

MIKE BALLARD,

Claimant,

vs.

BRIDGESTONE/FIRESTONE,

Employer,

and

OLD REPUBLIC INSURANCE
COMPANY,

Insurance Carrier,
Defendants.

FILED

JAN 24 2017

WORKERS' COMPENSATION

File No. 5044580

A P P E A L

D E C I S I O N

Head Note No: 1803

Claimant Mike Ballard appeals from an arbitration decision filed on August 3, 2015. Defendants Bridgestone/Firestone, employer, and its insurer, Old Republic Insurance Company, respond to the appeal. The case was heard on January 14, 2015, and it was considered fully submitted in front of the deputy workers' compensation commissioner on March 4, 2015.

The deputy commissioner found claimant failed to carry his burden of proof that the stipulated injury which arose out of and in the course of claimant's employment with defendant-employer on January 31, 2012, resulted in permanent disability. The deputy commissioner found claimant is not entitled to permanent disability benefits. The deputy commissioner found claimant's gross average weekly earnings for this injury are \$1,565.50, and claimant's weekly benefit rate, classification married with two exemptions, is \$972.74. The deputy commissioner found claimant is not entitled to penalty benefits. The deputy commissioner found claimant is not entitled to payment of requested past medical expenses. The deputy commissioner ordered defendants to reimburse claimant for the expense of the independent medical evaluation (IME) performed by Robin Sassman, M.D., on September 2, 2014. The deputy commissioner also ordered claimant to pay the costs of the arbitration proceeding.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant failed to carry his burden of proof that the work injury resulted in permanent disability. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to permanent disability benefits. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to penalty benefits. Claimant asserts the deputy

commissioner erred in finding claimant is not entitled to payment of requested past medical expenses. Claimant also asserts the deputy commissioner erred in failing to order defendants to pay the costs of the arbitration proceeding and in ordering claimant to pay those costs.

Defendants 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.

Having performed a de novo review of the evidentiary record and the detailed arguments of the parties, 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 August 3, 2015, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided sufficient analysis of 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 carry his burden of proof that the work injury resulted in permanent disability. I affirm the deputy commissioner's finding that claimant is not entitled to any permanent disability benefits. I affirm the deputy commissioner's finding that claimant's gross average weekly earnings for this injury are \$1,565.50, and claimant's weekly benefit rate, classification married with two exemptions, is \$972.74. I affirm the deputy commissioner's finding that claimant is not entitled to penalty benefits. I affirm the deputy commissioner's finding that claimant is not entitled to payment of requested past medical expenses. I affirm the deputy commissioner's order that defendants reimburse claimant for the cost of Dr. Sassman's IME. I also affirm the deputy commissioner's order that claimant pay the costs of the arbitration proceeding. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on August 3, 2015, is affirmed in its entirety.

Claimant shall take nothing in the way of permanent disability benefits in this matter.

Claimant's gross average weekly earnings for this injury are \$1,565.50, and claimant's weekly benefit rate, classification married with two exemptions, is \$972.74.

Defendants shall reimburse claimant for the cost of Dr. Sassman's IME.

Pursuant to rule 876 IAC 4.33, claimant shall pay the 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 this 24th day of January, 2017.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

Copies To:

Jean Mauss
Attorney at Law
6611 University Ave, Ste. 200
Des Moines, IA 50324-1655
jmauss@msalaw.net

Timothy W. Wegman
Attorney at Law
6800 Lake Drive, Suite 125
West Des Moines, IA 50266
tim.wegman@peddicord-law.com