

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

LAURIE A. PATRICK,

Claimant,

vs.

PURE FISHING, INC.,

Employer,

and

OLD REPUBLIC INSURANCE
COMPANY,

Insurance Carrier,
Defendants.

File No. 5064700

A P P E A L

D E C I S I O N

Head Notes: 1108.50; 1402.40; 1403.10
1801; 1803; 2501; 2502;
2907; 5-9998

Claimant Laurie A. Patrick appeals from an arbitration decision filed on September 27, 2019. Defendants Pure Fishing, Inc. employer, and its insurer, Old Republic Insurance Company, respond to the appeal. The case was heard on June 20, 2019, and it was considered fully submitted in front of the deputy workers' compensation commissioner on August 1, 2019.

The deputy commissioner found claimant failed to carry her burden of proof to establish she sustained permanent disability as a result of the stipulated work injury which occurred on November 11, 2016. The deputy commissioner found claimant was not credible. The deputy commissioner found claimant is not entitled to receive temporary disability benefits or permanent disability benefits for the work injury. The deputy commissioner found claimant is not entitled to payment by defendants for the requested past medical expenses itemized in the attachment to the hearing report. The deputy commissioner found that pursuant to Iowa Code section 85.39 claimant is not entitled to receive reimbursement from defendants for the cost of the independent medical evaluation (IME) of claimant performed by John D. Kuhnlein, D.O., on April 4, 2019. 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 failed to prove she sustained permanent disability as a result of the work injury. Claimant asserts the deputy commissioner erred in finding claimant was not credible.

Claimant asserts the deputy commissioner erred in finding claimant is not entitled to receive temporary disability benefits or permanent disability benefits for the work injury. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to payment by defendants for the past requested medical expenses. Claimant asserts the deputy commissioner erred in finding that pursuant to Iowa Code section 85.39 claimant is not entitled to receive reimbursement from defendants for the cost of Dr. Kuhnlein's IME. Claimant asserts the deputy commissioner erred in ordering the parties to pay their own costs of the arbitration proceeding.

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.

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 September 27, 2019, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis of all 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 prove she sustained permanent disability as a result of the work injury. I affirm the deputy commissioner's finding that claimant is not entitled to receive temporary disability benefits or permanent disability benefits for the work injury. I affirm the deputy commissioner's finding that claimant is not entitled to payment by defendants for the requested past medical expenses. I affirm the deputy commissioner's finding that pursuant to Iowa Code section 85.39 claimant is not entitled to receive reimbursement from defendants for the cost of Dr. Kuhnlein's IME. 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. Claimant asserts the deputy commissioner erred in finding claimant was not credible. I find the deputy commissioner correctly assessed claimant's credibility. I find nothing in the record in this matter which would cause me to reverse the deputy commissioner's credibility findings.

I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on September 27, 2019, 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 17th day of June, 2020.

Joseph S. Cortese II

JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Jenna L. Green (via WCES)

Timothy Clausen (via WCES)