

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

MICHELE AXTELL,

Claimant,

vs.

NORDSTROM DISTRIBUTION
CENTER,

Employer,
Self-Insured,
Defendant.

File No. 5063791

A P P E A L

D E C I S I O N

Head Notes: 1108.50; 1402.40; 1402.60;
1801; 1803; 2501; 2907;
5-9998

Claimant Michele Axtell appeals from an arbitration decision filed on August 5, 2019. Defendant Nordstrom Distribution Center, self-insured employer, responds to the appeal. The case was heard on May 29, 2019, and it was considered fully submitted in front of the deputy workers' compensation commissioner on June 12, 2019.

The deputy commissioner found claimant failed to carry her burden of proof to establish she sustained permanent disability as a result of her stipulated work-related injury which occurred on April 10, 2017. The deputy commissioner found claimant is entitled to receive nothing in the way of permanent partial disability benefits. The deputy commissioner found claimant reached maximum medical improvement (MMI) for the work injury on August 1, 2017. The deputy commissioner found claimant is not entitled to receive healing period benefits for the work injury from March 21, 2018, through November 6, 2018, as alleged. The deputy commissioner found claimant is not entitled to payment by defendant for the past requested medical expenses incurred after August 1, 2017, which are itemized in Joint Exhibit 8. The deputy commissioner found that because claimant proved only a temporary injury, claimant is not entitled to receive ongoing medical care. 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 failing to award claimant a substantial amount of industrial disability for the work injury. Claimant asserts the deputy commissioner erred finding claimant is not entitled to receive healing period benefits from March 21, 2018, through November 6, 2018. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to payment by defendant for the past requested medical expenses incurred after August 1, 2017, itemized in Joint Exhibit 8. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to ongoing medical care for the work injury. Claimant asserts the deputy

commissioner erred in failing to tax claimant's costs of the arbitration proceeding against defendant.

Defendant asserts 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 August 5, 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 carry her burden of proof to establish she sustained permanent disability as a result of the April 10, 2017, work injury. I affirm the deputy commissioner's finding that claimant is entitled to receive nothing in the way of permanent partial disability benefits. I affirm the deputy commissioner's finding that claimant reached MMI for the work injury on August 1, 2017. I affirm the deputy commissioner's finding that claimant is not entitled to receive healing period benefits for the work injury from March 21, 2018, through November 6, 2018. I affirm the deputy commissioner's finding that claimant is not entitled to payment by defendant for the past requested medical expenses incurred after August 1, 2017, which are itemized in Joint Exhibit 8. I affirm the deputy commissioner's finding that because claimant proved only a temporary injury, claimant is not entitled to receive ongoing medical care. I affirm the deputy commissioner's order that the parties pay their own costs of the arbitration proceeding.

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

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on August 5, 2019, is affirmed in its entirety.

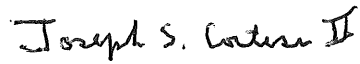
Defendant is responsible only for those past requested medical expenses which were incurred prior to August 1, 2017, which are itemized in Joint Exhibit 8.

Claimant shall take nothing further 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), defendant shall file subsequent reports of injury as required by this agency.

Signed and filed on this 15th day of April, 2020.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Eric J. Loney Via WCES

Kent Smith Via WCES