

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

SUSAN ARTHUR,

Claimant,

vs.

SUTHERLAND PRINTING, a/k/a  
NATIONAL ARGOSY SOLUTIONS,

Employer,

and

TWIN CITY FIRE INSURANCE  
COMPANY,

Insurance Carrier,

and

SECOND INJURY FUND OF IOWA,

Defendants.

File No. 5051508

A P P E A L

D E C I S I O N

Head Notes: 1402.40; 2905; 5-9998

Claimant Susan Arthur appeals from a review-reopening decision filed on April 24, 2019. Defendants Sutherland Printing a/k/a National Argosy Solutions, employer, and its insurer, Twin City Fire Insurance Co., respond to the appeal. Defendant Second Injury Fund of Iowa (the Fund) also responds to the appeal. The case was heard on March 14, 2019, and it was considered fully submitted in front of the deputy workers' compensation commissioner on April 4, 2019.

Claimant sustained a work-related injury to her bilateral upper extremities on November 3, 2011. Prior to the manifestation of the injuries to claimant's bilateral upper extremities, claimant sustained an injury to her right lower extremity on September 7, 2006. Following the February 25, 2016, evidentiary hearing, a deputy workers' compensation commissioner issued an arbitration decision, finding claimant sustained 40 percent industrial disability as a result of the combination of the two injuries.

On February 21, 2018, claimant filed a petition for review-reopening. The petition proceeded to hearing on March 14, 2019. On April 24, 2019, a different deputy commissioner issued a decision, finding claimant failed to carry her burden of proof to

establish she sustained a physical or economic change of condition which would entitle her to receive an increase in the amount of industrial disability benefits awarded to her in the underlying arbitration decision. As such, the deputy commissioner found claimant was not entitled to additional permanent partial disability benefits from either the employer or the Fund. The deputy commissioner ordered the parties to pay their own costs of the review-reopening proceeding.

On appeal, claimant asserts the deputy commissioner erred in finding she failed to carry her burden of proof to establish she sustained a change of condition which would entitle her to receive an increase in the amount of industrial disability awarded to her in the underlying arbitration decision. Claimant further asserts the deputy commissioner erred in failing to award substantial additional industrial disability benefits or, in the alternative, in failing to award permanent total disability benefits.

Defendants assert on appeal that the review-reopening 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 performed a de novo review of the evidentiary record and the detailed arguments of the parties. Pursuant to Iowa Code sections 17A.15 and 86.24, I affirm and adopt as the final agency decision those portions of the proposed review-reopening decision filed on April 24, 2019, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis of all the issues raised in the review-reopening 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 a physical or economic change of condition which would entitle her to receive an increase in the amount of industrial disability benefits awarded to her in the underlying arbitration decision. I affirm the deputy commissioner's finding that claimant is entitled to receive nothing in the review-reopening proceeding. I affirm the deputy commissioner's order that the parties pay their own costs of the review-reopening proceeding.

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

#### ORDER

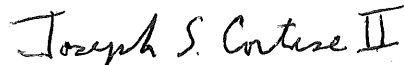
IT IS THEREFORE ORDERED that the review-reopening decision filed on April 24, 2019, is affirmed in its entirety.

Claimant shall take nothing from these proceedings.

Pursuant to rule 876 IAC 4.33, the parties shall pay their own costs of the review-reopening 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 13<sup>th</sup> day of May, 2020.



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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

The parties have been served as follows:

Randall Schueller            Via WCES

Jessica Ruth Voelker        Via WCES

Meredith C. Cooney         Via WCES