

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

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NICHOLAS C. UNDERWOOD,	:	File No. 5057188	<b>FILED</b> MAY - 8 2019 WORKERS' COMPENSATION
Claimant,	:	A P P E A L	
vs.	:	D E C I S I O N	
CITY OF DES MOINES,	:		
Employer, Self-Insured, Defendant.	:	Head Note Nos: 1402.30; 5-9998	

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Claimant Nicholas Underwood appeals from an arbitration decision filed on December 6, 2017. Defendant City of Des Moines, self-insured employer, responds to the appeal. The case was heard on August 9, 2017, and it was considered fully submitted in front of the deputy workers' compensation commissioner on August 30, 2017.

The deputy commissioner found claimant failed to carry his burden of proof that he sustained an injury to his low back as a result of a stipulated injury which arose out of and in the course of claimant's employment with defendant on December 31, 2015. The deputy commissioner found all other issues raised in this matter are moot, including whether claimant is entitled to receive temporary disability benefits, permanent disability benefits and medical benefits. 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 he sustained a low back injury as a result of the December 31, 2015, work injury. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to receive temporary disability benefits, permanent disability benefits and medical benefits. Claimant asserts the deputy commissioner erred in failing to order defendant to pay claimant's costs of the arbitration proceeding.

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 December 6, 2017, 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 arbitration proceeding.

I affirm the deputy commissioner's finding that claimant failed to prove he sustained an injury to his low back as a result of the December 31, 2015, work injury. I affirm the deputy commissioner's finding that all other issues raised in this matter are moot, including whether claimant is entitled to receive temporary disability benefits, permanent disability benefits and medical benefits. 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 all of the above issues.

#### ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on December 6, 2017, 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 only as it relates to claimant's December 31, 2015, left calf injury.

Signed and filed on this 8<sup>th</sup> day of May, 2019.

*Joseph S. Cortese II*

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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

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