

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

BILLY SOWDER,

Claimant,

vs.

MJL DELIVERY, INC.,

Employer,

and

INTEGRITY INSURANCE,

Insurance Carrier,
Defendants.

File No. 20004530.03

A P P E A L

D E C I S I O N

Headnotes: 1402.20; 1402.30; 1402.40;
1803; 2206; 2501; 2502;
2907; 5-9998

Claimant Billy Sowder appeals from an arbitration decision filed on July 10, 2023. Defendants MJL Delivery, Inc., employer, and its insurer, Integrity Insurance, respond to the appeal. The case was heard on January 4, 2023, and it was considered fully submitted in front of the deputy workers' compensation commissioner on February 24, 2023.

In the arbitration decision, the deputy commissioner found claimant was not a credible witness. The deputy commissioner found that while claimant carried his burden of proof to establish he sustained temporary disability of his left leg as a result of the stipulated January 2, 2020, work injury, the deputy commissioner found claimant failed to prove he sustained permanent disability of his left leg, his right leg, his low back and his body as a whole as a result of the work injury, and the deputy commissioner found claimant is not entitled to receive any 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 Exhibits 4 through 7. The deputy commissioner found claimant is not entitled to future medical care for the work injury. 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 Robert Rondinelli, M.D. The deputy commissioner found claimant is not entitled to reimbursement from defendants for claimant's costs of the arbitration proceeding.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant was not credible. Claimant asserts the deputy commissioner erred in finding claimant failed to prove he sustained permanent disability of his left leg, his right leg, his low back and his body as a whole as a result of the work injury. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to receive any 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 requested past medical expenses itemized in Exhibits 4 through 7. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to future medical care for the work injury. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to receive reimbursement from defendants for the cost of Dr. Rondinelli's IME. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to reimbursement from defendants for claimant's costs of the arbitration proceeding.

Defendants assert on appeal that the arbitration decision should be affirmed in its entirety.

Those portions of the proposed arbitration decision pertaining to issues not raised on appeal are adopted as 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 July 10, 2023, 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 findings of fact and conclusions of law pertaining to those issues.

Some of the findings by the deputy commissioner in the arbitration decision were based on the deputy commissioner's findings regarding claimant's credibility. The deputy commissioner found claimant was not credible. Claimant asserts the deputy commissioner erred in finding claimant was not credible. I find the deputy commissioner correctly assessed claimant's credibility. While I performed a de novo review on appeal, I give considerable deference to findings of fact, which are impacted by the credibility findings, expressly or impliedly made, regarding claimant by the deputy commissioner who presided at the arbitration hearing. I find nothing in the record in this matter which would cause me to reverse the deputy commissioner's findings regarding claimant's credibility.

I affirm the deputy commissioner's finding that claimant failed to prove he sustained permanent disability of his left leg, his right leg, his low back, and his body as a whole as a result of the work injury. I affirm the deputy commissioner's finding that claimant is not entitled to receive any 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 itemized in Exhibits 4 through 7. I affirm the deputy commissioner's finding that claimant is not entitled to future medical care for the work injury. I affirm the deputy commissioner's finding that claimant is not entitled to receive reimbursement from defendants for the cost of Dr. Rondinelli's IME. I affirm the deputy commissioner's finding that claimant is not entitled to reimbursement from defendants for claimant's costs of the arbitration proceeding.

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

ORDER

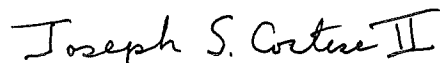
IT IS THEREFORE ORDERED that the arbitration decision filed in this matter on July 10, 2023, is affirmed in its entirety.

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 1st day of November, 2023.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Nathaniel Boulton (via WCES)

Coreen Sweeney (via WCES)