

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

MARK JENSEN,

Claimant,

vs.

CEDAR RAPIDS COMMUNITY
SCHOOL DISTRICT,

Employer,

and

EMPLOYERS MUTUAL CASUALTY CO.,

Insurance Carrier,
Defendants.

FILED

AUG 16 2017

WORKERS' COMPENSATION

File No. 5051383

A P P E A L

D E C I S I O N

Head Note Nos: 1804; 2501; 5-9998

Defendants Cedar Rapids Community School District, employer, and its insurer, Employers Mutual Casualty Company, appeal from an arbitration decision filed on December 21, 2015, and from a ruling on defendants' motion for rehearing filed on January 14, 2016. Claimant Mark Jensen responds to the appeal. The case was heard on November 3, 2015, and it was considered fully submitted in front of the deputy workers' compensation commissioner on November 16, 2015.

The deputy commissioner found claimant carried his burden of proof that the stipulated injury which arose out of and in the course of claimant's employment with defendant-employer on October 1, 2014, caused claimant to sustain a permanent aggravation of his pre-existing low back condition. The deputy commissioner awarded claimant permanent total disability benefits commencing October 2, 2014. The deputy commissioner found defendants are entitled to a credit for all weekly benefits paid to date. The deputy commissioner found claimant is entitled to payment by defendants of past medical expenses submitted by claimant at the arbitration hearing. The deputy commissioner found claimant is entitled to payment by defendants of future medical expenses of claimant necessitated by the work injury. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding.

Defendants assert on appeal that the deputy commissioner erred in finding claimant to be a credible witness. Defendants assert the deputy commissioner erred in finding the work injury caused claimant to sustain an aggravation of his pre-existing low back condition. Defendants assert the deputy commissioner erred in finding claimant's disability is the result of the October 1, 2014, work injury and not a continuation of an April 30, 2010, injury. Defendants assert the deputy commissioner erred in awarding

claimant permanent total disability. Defendants assert the deputy commissioner erred in awarding claimant payment of past medical expenses. Defendants assert the deputy commissioner erred in finding claimant is entitled to payment by defendants of future medical expenses. Defendants assert the deputy commissioner erred in ordering defendants to pay claimant's costs of the arbitration proceeding.

Claimant 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.

Having performed a de novo review of the evidentiary record and the detailed arguments of the parties, I reach the same analysis, findings, and conclusions as those reached by the deputy commissioner.

Pursuant to Iowa Code sections 86.24 and 17A.15, I affirm and adopt as the final agency decision most of those portions of the proposed arbitration decision filed in this matter on December 21, 2015, which relate to issues properly raised on intra-agency appeal.

I find the deputy commissioner provided sufficient analysis of the issues raised in the arbitration proceeding. I affirm the deputy commissioner's finding that claimant carried his burden of proof that the stipulated October 1, 2014, work injury caused claimant to sustain an aggravation of his pre-existing low back condition. I affirm the deputy commissioner's finding that claimant's disability is the result of the October 1, 2014, work injury and not a continuation of an April 30, 2010, injury. I affirm the deputy commissioner's award of permanent total disability benefits. I affirm the deputy commissioner's finding that defendants are entitled to a credit for all weekly benefits paid to date. I affirm the deputy commissioner's finding that claimant is entitled to payment by defendants of past medical expenses submitted by claimant at the arbitration hearing. I affirm the deputy commissioner's finding that claimant is entitled to payment by defendants of future medical expenses of claimant necessitated by the work injury. I also affirm the deputy commissioner's order taxing defendants with claimant's costs of the arbitration proceeding. I affirm the deputy commissioner's findings, conclusions and analysis regarding 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. While I performed a de novo review, 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 finding that claimant is credible.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on December 21, 2015, is affirmed in its entirety.

Defendants shall pay claimant permanent total disability benefits at the rate of four hundred sixty-seven and 35/100 dollars (\$467.35) per week commencing October 2, 2014, and during the time claimant remains permanently and totally disabled.

Defendants shall pay accrued weekly benefits in a lump sum together with interest pursuant to Iowa Code section 85.30.

Defendants shall be given credit for all weekly benefits previously paid.


Defendants shall pay claimant's prior medical expenses submitted by claimant at the arbitration hearing.

Defendants shall pay the future medical expenses of claimant necessitated by the October 1, 2014, work injury.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding, and defendants 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 16th day of August, 2017.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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