

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

RUSSELL ENGLISH,

Claimant,

vs.

CITY OF DES MOINES,

Employer,
Self-Insured,
Defendant.

File No. 20701000.02

A P P E A L

D E C I S I O N

Head Notes: 1402.20; 1402.40; 1802; 1803;
2206; 2907; 5-9998

Claimant Russell English appeals from an arbitration decision filed on August 22, 2023. Defendant City of Des Moines, self-insured employer, responds to the appeal. The case was heard on March 2, 2023, and it was considered fully submitted in front of the deputy workers' compensation commissioner at the conclusion of the hearing because the parties opted not to file post-hearing briefs.

In the arbitration decision, the deputy commissioner found that while claimant carried his burden of proof to establish he sustained a work-related injury on January 13, 2020, claimant failed to prove he sustained permanent disability as a result of that injury. The deputy commissioner found claimant is not entitled to receive any temporary disability benefits or any permanent disability benefits for the work injury. The deputy commissioner found that pursuant to Iowa Code section 85.39, claimant is not entitled to reimbursement from defendant for the cost of the independent medical evaluation (IME) of claimant performed by Robert Rondinelli, M.D. The deputy commissioner ordered the parties to pay their own costs of the arbitration proceeding.

Claimant asserts the deputy commissioner erred in finding claimant failed to prove he sustained permanent disability as a result of the work injury. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to receive any temporary disability benefits or any permanent disability benefits for the work injury. Claimant asserts the deputy commissioner erred in finding that pursuant to Iowa Code section 85.39, claimant is not entitled to receive reimbursement from defendant for the cost of Dr. Rondinelli's IME. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to reimbursement from defendant for 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 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 August 22, 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.

I affirm the deputy commissioner's finding that while claimant proved he sustained a work-related injury on January 13, 2020, I affirm the deputy commissioner's finding that claimant failed to prove he sustained permanent disability as a result of the injury. I affirm the deputy commissioner's finding that claimant is not entitled to receive any temporary disability benefits or any permanent disability benefits for the work injury. I affirm the deputy commissioner's finding that pursuant to Iowa Code section 85.39, claimant is not entitled to reimbursement from defendant for the cost of Dr. Rondinelli's IME. I affirm the deputy commissioner's order that the parties pay their owns 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 August 22, 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 20th day of December, 2023.

Joseph S. Cortese II

JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Christopher Spaulding (via WCES)

Molly Tracy (via WCES)