

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

DENNIS LONG,
Claimant,

vs.

THOMBERT, INC.,
Employer,

and

EMCASCO INSURANCE COMPANY,
Insurance Carrier,
Defendants.

FILED

JUN 28 2018

WORKERS' COMPENSATION

File No. 5055046

A P P E A L

D E C I S I O N

Head Note Nos: 1402.30; 1801; 1803;
2400; 2500; 5-9998

Claimant Dennis Long appeals from an arbitration decision filed on December 29, 2016. Defendants Thombert, Inc., employer, and its insurer, EMCASCO Insurance Company, respond to the appeal. The case was heard on September 30, 2016, and it was considered fully submitted in front of the deputy workers' compensation commissioner on October 21, 2016.

The deputy commissioner found claimant failed to carry his burden of proof that he sustained an injury which arose out of and in the course of his employment with defendant-employer on or about August 27, 2014, as alleged. Because the deputy commissioner found claimant failed to carry his burden of proof on the issues of causation and compensability regarding the alleged injury, the deputy commissioner found all other issues raised in this matter are moot, including whether this claim is barred for failure to give timely notice under Iowa Code section 85.23, and 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 carry his burden of proof that he sustained a work-related injury on or about August 27, 2014, as alleged. Claimant asserts the deputy commissioner erred in failing to find claimant is entitled to temporary disability benefits, permanent total disability benefits and medical benefits. Claimant also asserts the deputy commissioner erred in failing to find claimant is entitled to reimbursement from defendants for his costs of the arbitration proceeding.

Defendants assert 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 29, 2016, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided sufficient 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 claimant failed to carry his burden of proof that he sustained a work-related injury on or about August 27, 2014, as alleged. I affirm the deputy commissioner's finding that all other issues raised in this matter are moot, including whether this claim is barred for failure to give timely notice of the claim under Iowa Code section 85.23, and 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 those issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on December 29, 2016, 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.

Signed and filed on this 28th day of June, 2018.

Joseph S. Cortese II

JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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