

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

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RITA YOUNG,

Claimant,

vs.

ALCOA,

Employer,

and

INDEMNITY INSURANCE COMPANY  
OF NORTH AMERICA,

Insurance Carrier,  
Defendants.

File No. 5049315

A P P E A L

D E C I S I O N

Head Note No: 1108, 5-9998

**FILED**

**JUL 17 2017**

**WORKERS' COMPENSATION**

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Claimant Rita Young appeals from an arbitration decision filed on January 29, 2016. Defendants ALCOA, employer, and its insurer, Indemnity Insurance Company of North America, respond to the appeal. The case was heard on December 14, 2015, and it was considered fully submitted in front of the deputy workers' compensation commissioner on December 22, 2015.

The deputy commissioner found claimant failed to carry her burden of proof that she sustained an injury to her left shoulder which arose out of and in the course of her employment with defendant-employer as alleged. The deputy commissioner awarded claimant nothing. The deputy commissioner found claimant is not entitled to reimbursement pursuant to Iowa Code section 85.39 for the independent medical evaluation (IME) performed by David Tearse, M.D., on September 28, 2015. The deputy commissioner ordered claimant to pay the costs of the arbitration proceeding.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant failed to carry her burden of proof that she sustained a work-related left shoulder injury as alleged. Claimant asserts the deputy commissioner erred in failing to award healing period benefits and in failing to award industrial disability benefits. Claimant also asserts the deputy commissioner erred in finding claimant is not entitled to reimbursement pursuant to Iowa Code section 85.39 for Dr. Tearse's IME.

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.

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 17A.5 and 86.24, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed on January 29, 2016, which relate to the 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 findings of fact and conclusions of law pertaining to those issues. I affirm the deputy commissioner's finding that claimant failed to carry her burden of proof that she sustained a work-related left shoulder injury as alleged. I affirm the deputy commissioner's finding that claimant is entitled to neither healing period benefits nor industrial disability benefits. I affirm the deputy commissioner's finding that claimant is not entitled to reimbursement for Dr. Tearse's IME. I also affirm the deputy commissioner's order that claimant pay the 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 January 29, 2016, is affirmed in its entirety.

Claimant shall take nothing from these proceedings.

Pursuant to rule 876 IAC 4.33, claimant shall pay the costs of the arbitration proceeding, and claimant shall pay the costs of the appeal, including the cost of the hearing transcript.

Signed and filed this 17<sup>th</sup> day of July, 2017.



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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

Copies To:

Nick Avgerinos  
Attorney at Law  
55 W. Monroe St., Ste. 900  
Chicago, IL 60603  
[nja@capronlaw.com](mailto:nja@capronlaw.com)

Jane V. Lorentzen  
Attorney at Law  
2700 Grand Ave., St. 111  
Des Moines, IA 50312  
[jlorentz@hhlawpc.com](mailto:jlorentz@hhlawpc.com)