BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

HOWARD SEAMON, Claimant, vs. WOLSELEY INVESTMENTS d/b/a FERGUSON ENTERPRISES, Employer, and LIBERTY MUTUAL INSURANCE COMPANY, Insurance Carrier, Defendants.	File No. 5043765 APPEAL DECISION Head Note Nos.: 1402.30, 1402.40

FILED
JUL 17 2018
WORKERS' COMPENSATION

STATEMENT OF THE CASE

Defendants, Wolseley Investments d/b/a Ferguson Enterprises, employer, and Liberty Mutual Insurance Company, insurer, appealed from an arbitration decision filed October 4, 2016. That decision found, in part, claimant had a permanent impairment from a work-related physical injury, claimant had a mental injury that arose out of and in the course of employment, and claimant was permanently and totally disabled.

The detailed arguments of the parties have been considered and the evidence viewed de novo. Upon written delegation of authority by the workers' compensation commissioner under Iowa Code section 86.3, I render this decision as a final agency decision on the behalf of the workers' compensation commissioner.

ISSUES

1. Whether claimant sustained a permanent disability as to his physical injury.
2. Whether claimant sustained a mental injury that arose out of and in the course of employment.
3. The extent of claimant's entitlement to permanent partial disability benefits.
4. Whether defendants are liable for a penalty under Iowa Code section 86.13.

FINDINGS OF FACT

Claimant was 37 years old at the time of hearing. (Transcript page 32) Claimant graduated from high school. (Tr. p. 34) Claimant worked at fast food restaurants and at meat processing plants. Claimant worked as a stock picker. (Exhibit 6, p. 4) Claimant also worked as an attendant and a manager at a gas station. (Ex. P; Deposition pp. 13-14)

Claimant's prior medical history is relevant. Claimant has a history of anxiety and panic attacks. Claimant was taking medication for those conditions. Claimant has also been assessed as having posttraumatic stress disorder (PTSD), and bipolar disorder. (Ex. G, p. 1; Ex. H, p. 5; Ex. R, p. 12; Ex. 2, p. 9)

Claimant testified at hearing he has witnessed a number of traumatic events including, but not limited to, a murder, a lynching, a person being stomped on, a person committing suicide, and being personally thrown off a bridge. (Tr. p. 72)

Claimant worked at Wolseley Investments (doing business as Ferguson) as a stock picker. Ferguson is a distributor that sells piping, plumbing, and HVAC. Claimant would fill orders using a cherry picker. On April 16, 2012 claimant was lowering the cherry picker when the device jolted. Claimant testified he felt pain in his lower back.

On April 17, 2012 claimant was evaluated by David Kirkle, D.O. Claimant complained of lumbar region pain after getting jolted on an order picker at work. Claimant was assessed as having questionable lumbar strain and left leg and groin pain. He was treated with medication and given work restrictions. (Ex. 4, p. 1)

Claimant continued to treat in follow up care with Dr. Kirkle in April and May of 2012. Claimant complained of lower back pain with radiation. Physical therapy and chiropractic care was prescribed. (Ex. 4, pp. 3-17) Claimant was given work restrictions. (Ex. 4, pp. 3-17) When conservative treatment failed to improve claimant's symptoms, an MRI was ordered. (Ex. 4, p. 18)

On June 7, 2012 claimant underwent an MRI to the lumbar spine. It showed no significant degenerative disc disease. (Ex. A) No nerve impingement was noted on the MRI. Claimant's MRI was assessed as being unremarkable. (Ex. 4, pp. 19-20) Trigger point injections were given by Dr. Kirkle. (Ex. 4, p. 21)

On June 28, 2012 Robert Federhofer, M.D., evaluated claimant for lower back pain. Claimant was assessed as having degenerative disc disease with back pain and radiation. (Ex. 4, p. 28) Dr. Federhofer gave claimant transforaminal epidural injections. Claimant was also given a left S1 joint injection and a piriformis sheath injection. (Ex. 4, p. 28, 38)

On October 4, 2012 claimant returned to Dr. Federhofer. Claimant had no improvement despite receiving numerous injections. Dr. Federhofer noted claimant's MRI was unremarkable, and he could not explain claimant's complaints of pain. Dr.

Federhofer recommended a psychological evaluation to determine if there was a mental issue that would be influencing claimant's pain. (Ex. 4, pp. 40-41)

Claimant was evaluated by Jeffrey Sutton, M.D. for refills of medication. Claimant indicated, at that time, an increase in panic attacks and insomnia. (Ex. 4, p. 50)

On December 12, 2012 claimant underwent a functional capacity evaluation (FCE) performed by John Kruzich, MS, OTR/L. Claimant was found to give good effort. Symptom magnification was noted in testing. Claimant was limited to lifting up to 15 pounds floor to waist, and 10 pounds waist to head. (Ex. 4, pp. 52-62)

On January 11, 2013 claimant underwent an independent medical evaluation (IME) with Kenneth McMains, M.D. Dr. McMains found claimant was at maximum medical improvement (MMI) as of July 16, 2012. Dr. McMains found claimant had no permanent impairment. This finding was based, in part, on an unremarkable MRI with no evidence of nerve compression, a normal neurological exam, and no objective structural damage. Dr. McMains opined claimant also had no permanent restrictions. (Ex. B)

Claimant was terminated from weekly workers' compensation benefits following Dr. McMains' report. Claimant testified in deposition he had no prior notice his benefits were terminated. (Ex. P, p. 153) In a letter dated January 17, 2013 claimant was told to return to work by January 22, 2013 for his order picker job. (Ex. N, p. 8) Claimant testified he did not believe he could do the job. (Tr. p. 46) On January 23, 2013 claimant was terminated from Ferguson for failure to return to work. (Ex. 5, p. 2)

On June 15, 2013 claimant was evaluated by Penumetsa Raju, M.D. Claimant was evaluated for anxiety and mental health issues. Claimant indicated he had numerous traumatic events that included being thrown off a bridge at the age of 7, seeing a friend hang himself when he was 12, and seeing someone shoot a friend when he was 15. Claimant was assessed as having anxiety disorder and major depression. He was treated with medication.

On November 25, 2013 claimant underwent an EMG for his lower extremities. EMG testing was found to be normal for claimant's lower extremities. (Ex. F)

In an April 16, 2014 report Robert Rondinelli, M.D. gave his opinions of claimant's condition following an IME. He opined claimant sustained a soft tissue injury or sprain in the April 2012 injury. He indicated exams and diagnostic testing did not reveal evidence of a fracture, or a trauma to the nervous system. (Ex. G)

Dr. Rondinelli opined claimant had a psychological barrier and recommended claimant see a pain psychologist. Dr. Rondinelli found claimant was not at MMI, as he had a psychological dysfunction, which may have been aggravated by the April of 2012 injury. (Ex. G)

In an April 25, 2014 Social Security disability decision, claimant was found not to be disabled under the Social Security Disability Act. The administrative law judge (ALJ) found claimant had a functional capacity to perform past relevant work in fast foods and retail management. (Ex. M, pp. 46-56)

In a May 28, 2014 report Mark Mittauer, M.D., gave his opinions of claimant's condition following an IME. Claimant had told Dr. Mittauer: (1) He had witnessed an African-American man being beaten at a KKK rally; (2) been thrown off a bridge by his uncle; (3) saw a friend shot in the head at a party; (4) saw a friend kill his girlfriend at a junior high dance and; (5) witnessed a classmate hanging by a rope in a garage after committing suicide. Claimant indicated PTSD symptoms since he was 13. (Ex. 2, pp. 1-9)

Claimant was assessed as having a major depressive disorder and a generalized anxiety disorder and PTSD. (Ex. 2, p. 10) Dr. Mittauer opined claimant's depressive disorder was caused by the April of 2012 work incident and the anxiety disorder was aggravated by the April of 2012 incident. He found claimant was not at MMI for the depressive disorder, anxiety disorder or PTSD. (Ex. 2, pp. 12-13)

Dr. Mittauer opined claimant's generalized anxiety disorder and anxiety disorder were exacerbated by claimant's work injury. (Ex. 2, p. 17)

In a May 27, 2014 report, a private investigator gave his findings of an investigation conducted concerning the traumatic events allegedly witnessed by claimant. The private investigator spoke to claimant's father, spoke with law enforcement from claimant's home area, and contacted media outlets. The report found there was no hard evidence claimant was at any of the events he described. The report also found most of the events described by claimant did not happen. (Ex. L)

In a June 25, 2014 report Sam Graham, Ph.D. gave his opinions of claimant's condition following exam of claimant and review of his records. Dr. Graham opined claimant's injury of April 2012 interacted with several pre-existing personality traits that appear to have resulted in the development of a major depressive disorder. Dr. Graham noted:

> Because Mr. Seamon does not appear to be a reliable historian and the report of a private investigator substantially supports the idea he may confabulate events in his memory, as well as claims of achievement . . . it appears most likely to me that a great reserve of feelings of inferiority and inadequacy have interacted with the current injury to create his current

> mental health symptoms. The reliability of his self-report of the intensity of symptoms must be questioned based on the inconsistency of his self-report and the evaluation of the investigator.

(Ex. H, p. 5)

In an October 11, 2014 report Naomi McCormick, Ph.D. gave her opinions of claimant's condition following an independent psychological exam. Dr. McCormick assessed claimant as having a major depressive disorder and a schizoid personality disorder. She opined a significant portion of claimant's psychological injury appears to be pre-existing. She indicated the nature of claimant's April of 2012 soft tissue injury and claimant's symptom magnification suggests the workplace injury is one of many variables contributing to claimant's major depressive disorder episode. She found claimant's schizoid disorder unrelated to the April of 2012 incident. She opined claimant's workplace injury was a minor factor in causing his major depressive disorder. (Ex. I)

On December 19, 2014 claimant began treating with Dr. McCormick. Claimant was assessed as having a major depressive disorder and a schizoid personality disorder. Claimant treated with Dr. McCormick on almost a weekly basis from December 19, 2014 through March 17, 2015. (Ex. 3, pp. 1-33)

In an April 14, 2014 report Robin Sassman, M.D. gave her opinions of claimant's condition following an IME. Claimant complained of constant lower back pain. Claimant said he could not walk or stand more than five minutes. Claimant complained of tingling in the left foot. Claimant weighed 329 pounds and stood approximately 5 feet 9 inches tall. She assessed claimant as having lower back pain with radicular symptoms. Dr. Sassman believed the April 16, 2012 incident was a substantial aggravating factor in the underlying degenerative changes to claimant's lumbar spine. She found claimant had a 10 percent permanent impairment to the body as a whole due to signs of radiculopathy on exam. (Ex. 1)

In a May 1, 2015 letter Dr. McCormick responded to questions raised by claimant's counsel. Dr. McCormick opined claimant's testing indicated significant somatization on claimant's part. She noted "numerous objective psychological test findings strongly suggested the patient <u>non-consciously</u> exaggerates medical symptoms." She noted claimant truly believes he is experiencing agonizing pain despite the relative absence of any objective medical findings for his complaints. (Ex. 3, p. 38) She indicated claimant's alleged PTSD symptoms had nothing to do with the workplace injury. (Ex. 3, p. 38)

Dr. McCormick indicated claimant was not malingering but unconsciously exaggerating his medical condition. (Ex. 3, p. 38)

In deposition, Dr. McCormick reiterated her opinion that claimant's workplace incident played a minor role in his depressive disorder episode. (Ex. R, pp. 11, 18) She testified claimant had significant personality issues that pre-existed the work injury. (Ex. R, p. 12) She indicated claimant's psychological issues created medical complaints that cannot be verified or validated. (Ex. R, pp. 32-33)

In a September 4, 2015 letter Dr. Mittauer responded to questions raised by claimant's attorney. He opined claimant's major depressive disorder was caused by the April 16, 2012 work injury. He also opined claimant's anxiety disorder was aggravated by the April 16, 2012 work injury. He found claimant had reached MMI. He opined claimant was not currently capable of full-time employment given his mental health situation. (Ex. 2, pp. 28-29)

In deposition, Dr. Mittauer testified claimant was untruthful regarding various alleged traumatic events. He agreed it was also possible that claimant exaggerated or fabricated symptoms reported for major depressive disorder and for his anxiety disorder. (Ex. Q, p. 8)

Dr. Mittauer testified he believed claimant became depressed as a result of the work injury. He said he based this opinion largely on claimant's reporting of symptoms of depression after the work-related incident. (Ex. Q, p. 10)

Dr. Mittauer testified that in his opinion claimant was not capable of gainful employment. He said this was based on claimant's self-report of symptoms. (Ex. Q, p. 16) He testified claimant's PTSD was not related to his work injury. (Ex. Q, p. 17)

Dr. Graham testified in deposition claimant had pre-existing personality issues that would have put him at risk for serious psychological disorders if he experienced major stressors in his life. He opined claimant's work injury was a major stressor in his life contributing to the development of a major depressive disorder. (Ex. S, p. 10)

Dr. Graham noted claimant had a work injury that may have been minor. He noted the work injury interacted with claimant's pre-existing psychological issues. (Ex. S, p. 14)

Claimant testified in hearing he believed his lower back injury aggravated his depression and anxiety. (Tr. p. 49) He said he had back pain every day.

Claimant testified he has looked for work. He said he has filed a number of applications and resumes and has had two interviews. He said one interview was for an assistant manager at a Hy-Vee Gas station. He said the other was for a telemarketing company. Claimant said he did not get a job with either interview. (Tr. pp. 61-63)

The record indicates defendants initially paid claimant benefits at a weekly rate of $411.45 per week. The parties agreed claimant was overpaid $5.66 per week from April 17, 2012 through January 11, 2013. (Ex. K, pp. 2-3) The record indicates defendants stopped paying claimant benefits as of January 11, 2013 after receiving Dr.

McMains' report. There is no record defendants sent claimant an Auxier letter informing him he would be terminated from benefits in 30 days, and that he had a right to dispute termination. Auxier v. Woodward State Hosp.-School, 266 N.W.2d 139 (Iowa 1978). There is no record in evidence that a notice had been provided to claimant under Iowa Code section 86.13(2).

CONCLUSIONS OF LAW

The first issue to be determined is whether claimant's physical injury resulted in a permanent disability.

The party who would suffer loss if an issue were not established has the burden of proving that issue by a preponderance of the evidence. Iowa R. App. P. 6.14(6).

The claimant has the burden of proving by a preponderance of the evidence that the injury is a proximate cause of the disability on which the claim is based. A cause is proximate if it is a substantial factor in bringing about the result; it need not be the only cause. A preponderance of the evidence exists when the causal connection is probable rather than merely possible. George A. Hormel & Co. v. Jordan, 569 N.W.2d 148 (Iowa 1997); Frye v. Smith-Doyle Contractors, 569 N.W.2d 154 (Iowa App. 1997); Sanchez v. Blue Bird Midwest, 554 N.W.2d 283 (Iowa App. 1996).

The question of causal connection is essentially within the domain of expert testimony. The expert medical evidence must be considered with all other evidence introduced bearing on the causal connection between the injury and the disability. Supportive lay testimony may be used to buttress the expert testimony and, therefore, is also relevant and material to the causation question. The weight to be given to an expert opinion is determined by the finder of fact and may be affected by the accuracy of the facts the expert relied upon as well as other surrounding circumstances. The expert opinion may be accepted or rejected, in whole or in part. St. Luke's Hosp. v. Gray, 604 N.W.2d 646 (Iowa 2000); IBP, Inc. v. Harpole, 621 N.W.2d 410 (Iowa 2001); Dunlavey v. Economy Fire and Cas. Co., 526 N.W.2d 845 (Iowa 1995). Miller v. Lauridsen Foods, Inc., 525 N.W.2d 417 (Iowa 1994). Unrebutted expert medical testimony cannot be summarily rejected. Poula v. Siouxland Wall & Ceiling, Inc., 516 N.W.2d 910 (Iowa App. 1994).

Claimant contends he suffered a permanent disability from his physical injury that occurred on April 16, 2012. He contends he sustained a lumbar injury when the cherry picker he was on at work jarred him.

Claimant had an MRI to his lumbar spine in June of 2012. The MRI was unremarkable. The MRI showed no significant disc impingement or herniation. (Ex. A; Ex. 4, pp. 19-20)

Claimant underwent numerous injections with Dr. Federhofer. Those injections failed to yield results to claimant's subjective complaints of pain. Dr. Federhofer noted

claimant's MRI was unremarkable, and he could not explain claimant's complaints of pain. Dr. Federhofer suggested claimant had a mental component that influenced his complaints of pain. (Ex. 4, pp. 40-41)

Claimant underwent an FCE. The FCE was found to be valid. It also noted signs of symptom magnification. (Ex. 4, pp. 52-62)

Claimant underwent an IME with Dr. McMains. Dr. McMains opined claimant had no permanent impairment or permanent restrictions. This opinion was based upon an unremarkable MRI, no evidence of any nerve impingement, and no objective findings of structural or nerve damage. (Ex. B)

Claimant underwent an EMG for his lower extremities. The EMG was negative for a finding of radiculopathy. (Ex. F)

Claimant underwent evaluation with Dr. Rondinelli. Dr. Rondinelli found claimant had only a soft tissue injury. He suggested there was a significant mental component to claimant's complaints of pain. (Ex. G, p. 3)

Dr. McCormick performed an IME on claimant, and treated claimant for several months. She opined claimant showed significant signs of somatization. She also opined claimant tended to exaggerate his medical symptoms. (Ex. 3, p. 38)

Only Dr. Sassman opined claimant had a permanent disability due to his physical injury. Dr. Sassman found claimant's April of 2012 incident was a substantial factor in aggravating claimant's underlying degenerative changes. She also found signs of radiculopathy on claimant's exam. (Ex. 1)

Dr. Sassman failed to explain, in her report, how claimant had a permanent impairment to the lumbar spine given an unremarkable MRI. She failed to explain how claimant had signs of radiculopathy despite an EMG study finding no radiculopathy. She also failed to reconcile findings of permanent impairment given the opinions of Drs. McMains, Federhofer, Rondinelli and McCormick. Based upon these problems with Dr. Sassman's report, it is found her opinion regarding claimant's permanent impairment is not convincing.

Dr. McMains found claimant had no permanent impairment or permanent restrictions. Claimant's MRI was unremarkable for lumbar spine problems. Claimant's EMG showed no signs of radiculopathy in the lower extremities. Dr. Rondinelli opined claimant only had a soft tissue injury. Dr. McCormick indicated claimant tended to exaggerate his physical symptoms. She noted claimant's physical symptoms had no organic cause. The opinions of Dr. Sassman regarding permanent impairment are found not convincing. Given this record, claimant has failed to carry his burden of proof he sustained a permanent disability regarding his physical injury.

The next issue to determine is whether or not claimant had a mental injury that arose out of and in the course of employment.

The law regarding claimant's burden of proof and causal connection between claimant's mental condition and his work, detailed above, is applicable regarding this issue, but are not repeated here.

The claimant has the burden of proving by a preponderance of the evidence that the alleged injury actually occurred and that it both arose out of and in the course of the employment. Quaker Oats Co. v. Ciha, 552 N.W.2d 143 (Iowa 1996); Miedema v. Dial Corp., 551 N.W.2d 309 (Iowa 1996). The words "arising out of" referred to the cause or source of the injury. The words "in the course of" refer to the time, place, and circumstances of the injury. 2800 Corp. v. Fernandez, 528 N.W.2d 124 (Iowa 1995). An injury arises out of the employment when a causal relationship exists between the injury and the employment. Miedema, 551 N.W.2d 309. The injury must be a rational consequence of a hazard connected with the employment and not merely incidental to the employment. Koehler Electric v. Wills, 608 N.W.2d 1 (Iowa 2000); Miedema, 551 N.W.2d 309. An injury occurs "in the course of" employment when it happens within a period of employment at a place where the employee reasonably may be when performing employment duties and while the employee is fulfilling those duties or doing an activity incidental to them. Ciha, 552 N.W.2d 143.

In Iowa, when physical trauma causes or aggravates a mental condition (physical-mental) which increases or prolongs disability, all disability, including the effects of the nervous disorder, is compensable. Gosek v. Garmer and Stiles Co., 158 N.W.2d 731, 733 (Iowa 1968). No special legal causation test showing unusual stress exists in such cases. Only medical causation need be shown as would be the case in other workers' compensation claims. See generally, Lawyer, Workers' Compensation, section 4-6 (2014-2015).

It is not necessary for an underlying physical injury to be compensable for the employee to recover for a mental injury. Heartland Specialty Foods v. Johnson, 731 N.W.2d 397 (Iowa App. 2007).

Claimant contends he has a mental injury that arose out of and in the course of employment.

The record indicates claimant had mental health issues before his April of 2012 work incident. Claimant had a history of anxiety and panic attacks and was treated with medication for those conditions. Claimant was also assessed as having PTSD and bipolar issues. (Ex. G, p. 1; Ex. H, p. 5; Ex. R, p. 12; Ex. 2, p. 9) Claimant's records indicate he believed he witnessed a number of traumatic events. These events include, but are not limited to, witnessing an African-American man beaten at a KKK rally, being thrown off a bridge by his uncle, seeing a friend shot in the head at a party, seeing a friend kill his girlfriend with a gun at a junior high dance, and witnessing a classmate hanging by a rope in a garage after committing suicide. (Ex. 2, pp. 1-9; Tr. p. 72)

An investigation indicates claimant did not witness any of the alleged traumatic incidents. The investigation also suggests that only one incident actually occurred. (Ex. L)

Dr. Graham evaluated claimant on one occasion for an IME. He found claimant's work injury was a major stressor in his life contributing to the development of a major depressive disorder. (Ex. S, pp. 10, 14) Dr. Graham also recognized claimant was not a reliable historian. He noted the intensity of claimant's symptoms should be questioned based on inconsistencies of his alleged prior traumatic events as an adolescent. (Ex. H)

Dr. Mittauer also evaluated claimant on one occasion for an IME. He opined claimant's depressive disorder was caused by the April 2012 work injury. (Ex. 2, pp. 12-13) He also opined that at the time of his evaluation, claimant was not capable of gainful employment. (Ex. 2, pp. 28-29)

However, Dr. Mittauer also testified he based his opinions on claimant's reporting of his symptoms of depression. Dr. Mittauer also testified claimant was untruthful about the alleged traumatic incidents he had in his life. (Ex. Q p. 8)

Dr. McCormick evaluated claimant for an IME. She also provided counseling for claimant for an approximate four-month period of time. The record indicates Dr. McCormick actually treated claimant almost weekly from December of 2014 through March of 2015.

Dr. McCormick opined claimant had a major depressive disorder and a schizoid personality disorder before his April 2012 incident. She opined the April 2012 incident played a minor role in claimant's mental health condition. (Ex. I; Ex. R, Depo pages 11-12, 16)

I find Dr. McCormick's opinion regarding causation of the mental health injury more convincing than those of Drs. Graham and Mittauer for two reasons.

First, Dr. McCormick treated claimant for an extended period of time. The opinions of a treating physician are not to be given more weight than other experts solely because they are treating physicians. Gilliland v. Armstrong Rubber Co., 524 N.W.2d 404, 409 (Iowa 1994). However, as a factual matter, Dr. McCormick has a far greater familiarity with claimant's mental health presentation, his testing, and his personality than do Drs. Graham and Mittauer.

Second, all the experts recognize claimant was untruthful about a number of incidents that allegedly traumatized him in his adolescence. These events are

grandiose, dark and untrue. These events did not happen to claimant. As noted, claimant also has a propensity to exaggerate his physical symptoms.

Drs. McCormick, Mittauer, and Graham all recognize claimant is untruthful and unreliable about the alleged traumatic events in his life. All three experts acknowledge claimant may exaggerate his physical symptoms.

Claimant's counsel suggests that because claimant allegedly unconsciously makes up stories about his life, that claimant is still reliable regarding symptoms concerning his mental health condition.

Claimant is an unreliable historian. He is an unreliable witness. It does not matter if he consciously or unconsciously fabricates stories about traumatic events in his early life. It matters little that he consciously or unconsciously exaggerates his physical symptoms. He is an unreliable person. He is not credible. Any testimony he gives regarding his mental condition is also not credible. His description of his condition to experts is untrustworthy.

Dr. McCormick opined claimant's May 16, 2012 work injury is a minor factor in his mental injury. Her opinion is found more convincing than the opinions of Drs. Graham and Mittauer. All three experts admit claimant is unreliable and untruthful. Drs. Mittauer and Graham both admit their opinions regarding claimant's physical and mental condition are based upon claimant's reporting of symptoms. All three experts admit claimant is unreliable and untruthful. Based on this, claimant has failed to carry his burden of proof he sustained a mental injury that arose out of and in the course of employment.

As it is found claimant failed to carry his burden of proof he sustained a permanent disability from his physical injury, or that he sustained a mental injury that arose out of and in the course of employment, all other issues raised on appeal are moot.

ORDER

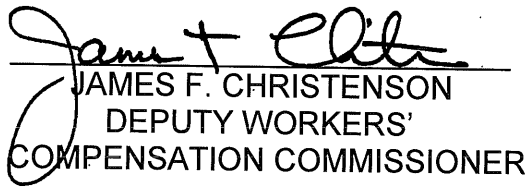
Therefore it is ordered:

That the arbitration decision filed on October 4, 2016 is reversed.

Claimant shall take nothing from these proceedings.

Both parties shall pay their own costs.

Signed and filed this 17th day of July, 2018.



JAMES F. CHRISTENSON
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

Copies To:

Daniel Anderson
Attorney at Law
1500 Center St. N.E.
PO Box 849
Cedar Rapids, IA 52406-0849
danderson@wertzlaw.com

Nathan R. McConkey
Attorney at Law
2700 Westown Pkwy., Ste. 170
West Des Moines, IA 50266-1411
nmcconkey@desmoineslaw.com