

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

DANIEL F. WELSH,

Claimant,

vs.

BEST BUY,

Employer,

and

XL INSURANCE AMERICA, INC.,

Insurance Carrier,
Defendants.

FILED

JUL 10 2018

WORKERS' COMPENSATION

File No. 5053417

A P P E A L

D E C I S I O N

Head Note Nos.: 1803; 1803.1; 5-9998

Claimant Daniel F. Welsh appeals from an arbitration decision filed on December 2, 2016, and from a ruling on rehearing filed on January 5, 2017. Defendants Best Buy, employer, and its insurer, XL Insurance of America, Inc., respond to the appeal. The case was heard on August 21, 2016, and it was considered fully submitted in front of the deputy workers' compensation commissioner on September 20, 2016.

The deputy commissioner found claimant failed to carry his burden of proof that the disability resulting from the stipulated work injury which arose out of and in the course of claimant's employment with defendant-employer on December 12, 2012, extends beyond claimant's right foot into claimant's body as a whole. The deputy commissioner found claimant failed to prove he sustained complex regional pain syndrome (CRPS) as a result of the work injury. The deputy commissioner found claimant is not entitled to receive industrial disability benefits for the work injury. The deputy commissioner found claimant sustained functional scheduled member permanent disability of five percent of the right foot as a result of the work injury, which entitles claimant to receive 7.5 weeks of permanent partial disability (PPD) benefits commencing on March 14, 2015.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant failed to carry his burden of proof that the disability resulting from the work injury extends into claimant's body as a whole. Claimant asserts the deputy commissioner erred in finding claimant failed to prove he sustained CRPS as a result of the work injury. Claimant asserts the deputy commissioner erred in finding claimant is

not entitled to receive industrial disability benefits for the work injury and in failing to award substantial industrial disability.

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 December 2, 2016, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned 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 his burden of proof that the disability resulting from the work injury extends into claimant's body as a whole. I affirm the deputy commissioner's finding that claimant failed to prove he sustained CRPS as a result of the work injury. I affirm the deputy commissioner's finding that claimant is not entitled to receive industrial disability benefits for the work injury and I affirm the deputy commissioner's finding that claimant sustained functional scheduled member permanent disability of five percent of the right foot as a result of the work injury. 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 2, 2016, and the ruling on rehearing filed on January 5, 2017, are affirmed in their entirety.

Defendants shall pay claimant seven point five (7.5) weeks of permanent partial disability benefits at the weekly rate of two hundred sixty and 37/100 dollars (\$260.37), commencing on March 14, 2015.

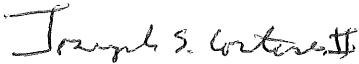
Defendants are entitled to a credit for all benefits previously paid.

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

Pursuant to rule 876 IAC 4.33, 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 10th day of July, 2018.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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