

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

STEVE GONZALEZ,  
Claimant,

vs.

DEXTER FOUNDRY, INC.,  
Employer,

and

SENTRY INSURANCE,  
Insurance Carrier,  
Defendants.

File No. 5028992

APPEAL  
DECISION

Head Note No.: 1402.40

**FILED**

JUN 25 2015

WORKERS' COMPENSATION

This case was originally heard on November 15, 2012. An arbitration decision was filed on April 25, 2013, denying claimant benefits and concluding that claimant's statute of limitations had expired. Claimant appealed that arbitration decision. On intra-agency appeal, former Commissioner Christopher J. Godfrey affirmed the arbitration decision.

Claimant sought judicial review. The Iowa District Court for Polk County concluded that the statute of limitations had not expired and remanded this case to the agency. On remand, this case was assigned to Deputy Workers' Compensation Commissioner Larry P. Walshire. Deputy Walshire issued an arbitration decision on remand on July 24, 2014. Deputy Walshire found:

Given the medical evidence of some prior left shoulder problems, the month delay in making any complaints of left shoulder or left knee problems and the lack of a convincing medical opinion to support this claim, I am unable to find that the work injury of August 27, 2007 is a cause of left shoulder or left knee problems initially reported to Dr. Taeger and eventually treated by the University of Iowa Hospitals and Clinics.

(Arbitration Decision on Remand, page 7)

Given this factual finding, Deputy Walshire concluded that claimant had not proven entitlement to any additional weekly or medical benefits. However, Deputy

Walshire did note claimant was entitled to reimbursement for the expense of his independent medical evaluation pursuant to Iowa Code section 85.39. Claimant timely appealed the Arbitration Decision on remand.

On May 19, 2015, the Iowa Workers' Compensation Commissioner, Joseph S. Cortese II, entered an order of delegation of authority assigning the undersigned to perform a de novo review and enter an appeal decision in this case pursuant to Iowa Code section 86.3. This appeal decision is now entered as final agency action pursuant to Iowa Code sections 17A.15(1) and 86.24.

I have considered the detailed arguments of the parties and reviewed the evidentiary record de novo. I adopt and affirm the arbitration decision on remand with the following analysis:

When considering claimant's credibility, I concur with the findings of Deputy Commissioner McElderry, former Commissioner Godfrey, and Deputy Walshire. Claimant's testimony was inconsistent with other pieces of evidence in numerous respects. I find Mr. Gonzalez's testimony not credible and to be worthy of little to no weight.

With respect to the Deputy Commissioner's analysis regarding the causation issue, I concur with the result but specifically find the opinion of Scott Neff, D.O. to be the most convincing medical opinion in this record. Dr. Neff considers other potential causes of claimant's injury and provides the most thorough analysis of the causation issue. (Defendants' Exhibit D)

Dr. Neff's opinion is supported by Charles R. Buck, M.D. (Ex. 1, p. 18A) as well as claimant's personal physician, Vincent A. Taeger, M.D. (Ex. 1, pp. 49-50, 54) These three medical opinions are accepted as accurate in this case and I find that claimant has not proven a causal connection between his August 27, 2007, work injury and his alleged injuries to his left shoulder and left knee.

Claimant relies upon the opinions of Brian R. Wolf, M.D., who only states that claimant's theory of injury is "possible." Dr. Wolf specifically opines, "it is my opinion that a fall onto the arm such as what Mr. Gonzalez describes at his work could possibly result in a labrum tear. It is also possible that his symptoms could escalate over time with further use of the arm." (Ex. 1, p. 102) I do not find this to be convincing evidence sufficient to establish a causal connection between the alleged injury and the shoulder pathology found during surgery. Certainly, I do not find that Dr. Wolf's opinion proves this causal connection by a preponderance of the evidence.

Claimant's second medical opinion is from Thomas Hughes, M.D. Dr. Hughes initially evaluated claimant and opined, "I could not verify any evidence of injury. The

behavior of Mr. Gonzalez reflected an extraordinary level of debilitation but no objective evidence of injury to either body part.” (Ex. 1, p. 74) Then, re-evaluating claimant approximately 18 months later, Dr. Hughes provided a revised opinion. (Ex. 1, pp. 105-113) However, in his revised opinion, Dr. Hughes demonstrated an incorrect understanding of the surgical findings and surgical procedure. (Ex. 1, p. 99; Ex. D, p. 8) Dr. Hughes’ change in opinion, coupled with his misunderstanding of the surgical findings, provide me very little confidence in Dr. Hughes’ opinion in this case. Therefore, I find Dr. Neff’s opinion to be most convincing and find that claimant failed to prove a causal connection between his August 27, 2007 work injury and his alleged left shoulder and left knee injuries.

Having reviewed the arbitration decision on remand de novo, I concur with the result of the arbitration decision.

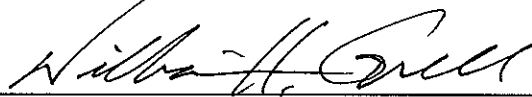
ORDER

THEREFORE, IT IS ORDERED:

The July 24, 2014, arbitration decision on remand is affirmed.

Claimant shall bear the costs of this appeal.

Signed and filed this 25th day of June, 2015.



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WILLIAM H. GRELL  
DEPUTY WORKERS' COMPENSATION  
COMMISSIONER

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