

## BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JASON LEE TYER,

Claimant,

vs.

B-20 AUTO, INC.,

Employer,

Defendant.

File No. 20007729.01

A P P E A L

D E C I S I O N

Head Notes: 2001; 2002; 2907; 5-9998

Claimant Jason Tyer appeals from an arbitration decision filed on October 26, 2022. Defendant B-20 Auto, Inc., responds to the appeal. The case was heard on May 27, 2022, and it was considered fully submitted in front of the deputy workers' compensation commissioner on June 24, 2022.

In the arbitration decision, the deputy commissioner found claimant did not meet his burden of proof to establish an employer-employee relationship existed between claimant and defendant, and the deputy commissioner found the other issues raised in this matter are moot. The deputy commissioner ordered the parties to pay their own costs of the arbitration proceeding, and to split the cost of the hearing transcript.

On appeal, claimant asserts the deputy commissioner erred in finding there was no employer-employee relationship between defendant and claimant. Claimant asserts he proved he sustained an injury arising out of and in the course of employment with defendant, and claimant asserts he is entitled to receive permanent total disability benefits. Claimant asserts defendant should be responsible for claimant's medical expenses. Claimant asserts that pursuant to Iowa Code section 85.39, he is entitled to reimbursement from defendant for the cost of claimant's independent medical examination. Claimant asserts that pursuant to 876 IAC 4.33, he is entitled to reimbursement from defendant for claimant's costs of the arbitration proceeding.

Defendant asserts on appeal that the arbitration decision should be affirmed in its entirety.

Those portions of the proposed arbitration decision pertaining to issues not raised on appeal are adopted as part of this appeal decision.

I 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.15 and 86.24, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed on October 26, 2022, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned 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.

Some of the findings by the deputy commissioner in the arbitration decision were based on the deputy commissioner's findings regarding claimant's credibility and the credibility of Gene Baker, the owner of defendant. The deputy commissioner found claimant was not a credible witness. The deputy commissioner found Baker was a credible witness. I find the deputy commissioner correctly assessed the credibility of the witnesses. While I performed a de novo review on appeal, I give considerable deference to the findings of fact which are impacted by the credibility findings, expressly or impliedly made, regarding claimant and Baker by the deputy commissioner who presided at the arbitration hearing. I find nothing in the record in this matter which would cause me to reverse the deputy commissioner's findings regarding claimant's credibility and the credibility of Baker.

I affirm the deputy commissioner's finding that claimant failed to prove an employer-employee relationship existed between defendant and claimant. I affirm the deputy commissioner's finding that the other issues raised in this matter are moot. I affirm the deputy commissioner's order that the parties pay their own costs of the arbitration proceeding, and that the parties split the cost of the hearing transcript.

I affirm the deputy commissioner's findings, conclusions, and analysis regarding the above-stated issues.

#### ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on October 26, 2022, is affirmed in its entirety.

Claimant shall take nothing from these proceedings.

Pursuant to 876 IAC 4.33, the parties shall pay their own costs of the arbitration proceeding, they shall split the cost of the hearing transcript, and claimant shall pay all other costs of the appeal, if any.

Pursuant to rule 876 IAC 3.1(2), defendant shall file subsequent reports of injury as required by this agency.

Signed and filed on this 8<sup>th</sup> day of February, 2023.



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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

The parties have been served as follows:

Richard R. Schmidt (via WCES)

D. Brian Scieszinski (via WCES)