

## BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

KAREN K. TOVAR,

Claimant,

vs.

JOHN DEERE WATERLOO WORKS,

Self-Insured  
Employer,  
Defendant.

File No. 5067547

A P P E A L

D E C I S I O N

Head Notes: 1402.20; 1402.30; 1801; 1803;  
2501; 2502; 2907; 4000.2

Claimant Karen K. Tovar appeals from an arbitration decision filed on October 12, 2020. Defendant John Deere Waterloo Works, self-insured employer, responds to the appeal. The case was heard on May 7, 2020, and it was considered fully submitted in front of the deputy workers' compensation commissioner on May 28, 2020.

In the arbitration decision, the deputy commissioner found claimant failed to meet her burden of proof to establish she sustained injuries to her bilateral upper extremities that arose out of and in the course of her employment with defendant as alleged. The deputy commissioner found that because claimant failed to prove causation and compensability, all other issues raised in this matter are rendered moot, including whether defendant proved its 90-day notice defense, whether claimant is entitled to receive temporary and permanent disability benefits, whether claimant is entitled to recover requested past medical expenses, and whether claimant is entitled to receive penalty benefits. The deputy commissioner ordered the parties to pay their own costs of the arbitration proceeding.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant failed to prove she sustained work-related injuries as alleged. Claimant asserts the deputy commissioner erred in failing to find claimant is entitled to receive temporary disability benefits, permanent disability benefits, payment of requested past medical expenses, penalty benefits and costs.

Defendant asserts 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.

I performed a de novo review of the evidentiary record and the detailed arguments of the parties. 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 12, 2020, 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.

I affirm the deputy commissioner's finding that claimant failed to prove she sustained work-related bilateral upper extremity injuries as alleged. I affirm the deputy commissioner's finding that because claimant failed to prove causation and compensability, all other issues raised in this matter are rendered moot. I affirm the deputy commissioner's order that the parties pay their own 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 October 12, 2020, is affirmed in its entirety.

Claimant shall take nothing from these proceedings.

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

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 11<sup>th</sup> day of February, 2021.



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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

The parties have been served as follows:

Benjamin R. Roth (via WCES)

James F. Kalkhoff (via WCES)