

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

 SAMUEL HOFER,

Claimant,

vs.

CITY OF INDIANOLA, IOWA,

Employer,

and

IMWCA,

Insurance Carrier,
Defendants.

File No. 20700341.01

A P P E A L

D E C I S I O N

 Head Notes: 1402.20; 1402.40; 1402.60;
 1403.10; 1801; 1803; 2206;
 2501; 2502; 2701; 2907;
 5-9998

Claimant Samuel Hofer appeals from an arbitration decision filed on October 4, 2021. Defendants City of Indianola, Iowa, employer, and its insurer, IMWCA, respond to the appeal. The case was heard on July 14, 2021, and it was considered fully submitted in front of the deputy workers' compensation commissioner on August 13, 2021.

In the arbitration decision, the deputy commissioner found that while claimant carried his burden of proof to establish he sustained an injury on February 4, 2020, which occurred in the course of his employment with defendant-employer, claimant failed to carry his burden of proof to establish the injury arose out of his employment. The deputy commissioner found that because claimant failed to prove causation and compensability, all other issues raised in this matter, including claimant's entitlement to temporary disability benefits and permanent disability benefits, and claimant's entitlement to alternate medical care, are moot. The deputy commissioner found that pursuant to Iowa Code section 85.39, claimant is not entitled to receive reimbursement from defendants for the cost of the independent medical evaluation (IME) of claimant performed by Sunil Bansal, M.D. 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 the injury arose out of his employment. Claimant asserts the deputy commissioner erred in finding all other issues raised in this matter are moot. Claimant asserts the deputy commissioner erred in finding that pursuant to Iowa Code section 85.39, claimant is not entitled to receive reimbursement from defendants for the

cost of Dr. Bansal's IME. Claimant asserts the deputy commissioner erred in failing to tax defendants with claimant's costs of the arbitration proceeding.

Defendants assert 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 a part of this appeal decision.

I have 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.5 and 86.24, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed on October 4, 2021, 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 while claimant proved he sustained an injury on February 4, 2020, which occurred in the course of his employment with defendant-employer, claimant failed to prove the injury arose out of his employment. I affirm the deputy commissioner's finding that because claimant failed to prove causation and compensability, all other issues raised in this matter, including claimant's entitlement to temporary disability benefits and permanent disability benefits, and claimant's entitlement to alternate medical care, are moot. I affirm the deputy commissioner's finding that pursuant to Iowa Code section 85.39, claimant is not entitled to receive reimbursement from defendants for the cost of Dr. Bansal's IME. 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 the above-stated issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on October 4, 2021, is affirmed in its entirety.

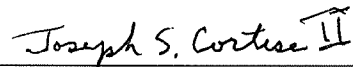
Claimant shall take nothing from these proceedings.

Claimant's request for alternate medical care is denied.

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), defendants shall file subsequent reports of injury as required by this agency.

Signed and filed on this 11th day of February, 2022.

Handwritten signature of Joseph S. Cortese II in black ink.

JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Gary Mattson (via WCES)

Rachael Neff (via WCES)

Skylar Limkemann (via WCES)