

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

DONALD BOHLMAN,

Claimant,

vs.

HY-VEE, INC.,

Employer,

and

EMC INSURANCE COMPANY,

Insurance Carrier,  
Defendants.

**FILED**

MAY - 4 2017

WORKERS' COMPENSATION

File No. 5047584

A P P E A L

D E C I S I O N

: Head Note Nos: 1402.30; 1801; 1803: 4000

Claimant Donald Bohlman appeals from an arbitration decision filed on December 1, 2015. Defendants Hy-Vee, Inc., employer, and its insurer, EMC Insurance Company, respond to the appeal. The case was heard on July 20, 2015, and it was considered fully submitted in front of the deputy workers' compensation commissioner on September 16, 2015.

The deputy commissioner found claimant failed to carry his burden of proof that the stipulated injury which arose out of and in the course of claimant's employment with defendant-employer on January 30, 2014, resulted in any temporary or permanent disability. The deputy commissioner awarded claimant nothing. The deputy commissioner found claimant is not entitled to penalty benefits. The deputy commissioner ordered claimant to pay the costs of the arbitration proceeding.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant failed to carry his burden of proof that the stipulated work injury resulted in any temporary or permanent disability. Claimant asserts the deputy commissioner erred in failing to award claimant temporary disability benefits and in failing to award claimant permanent disability benefits.

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 1, 2015, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided sufficient 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 stipulated work injury resulted in any temporary or permanent disability. I affirm the deputy commissioner's finding that claimant is entitled to no temporary disability benefits and no permanent disability benefits. I affirm the deputy commissioner's finding that claimant is entitled to no penalty benefits. I also affirm the deputy commissioner's order that claimant pay the costs of the arbitration proceeding. I affirm the deputy commissioner's findings, conclusions and analysis regarding 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. While I performed a de novo review, I give considerable deference to findings of fact which are impacted by the credibility findings, expressly or impliedly made, regarding claimant by the deputy commissioner who presided at the arbitration hearing.

#### ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on December 1, 2015, is affirmed in its entirety.

Claimant shall take nothing from these proceedings.

Defendants shall receive credit for all benefits previously paid.

Pursuant to rule 876 IAC 4.33, claimant shall pay the 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 this 4<sup>th</sup> day of May, 2017.

*Joseph S. Cortese II*  
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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

Copies To:

John R. Walker  
Attorney at Law  
PO Box 178  
Waterloo, IA 50704-0178  
[jwalker@beecherlaw.com](mailto:jwalker@beecherlaw.com)

Chris J. Scheldrup  
Cynthia A. Sueppel  
Attorneys at Law  
PO Box 36  
Cedar Rapids, IA 52406-0036  
[cscheldrup@scheldruplaw.com](mailto:cscheldrup@scheldruplaw.com)  
[csueppel@scheldruplaw.com](mailto:csueppel@scheldruplaw.com)