

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

EUSTOQUIA BROWN,

Claimant,

vs.

GOLDEN CRISP PREMIUM FOODS,

Employer,

and

SAFETY NATIONAL,

Insurance Carrier,
Defendants.

FILED
APR 30 2019
WORKERS' COMPENSATION

File No. 5062366

A P P E A L

D E C I S I O N

Head Note Nos: 1402.40; 1801; 1803;
1804; 2501; 5-9999

Claimant, Eustoquia Brown appeals from an arbitration decision filed on January 10, 2018. Defendants, Golden Crisp Premium Foods, employer, and its insurer, Safety National, respond to the appeal. The case was heard on August 29, 2017, and it was considered fully submitted in front of the deputy workers' compensation commissioner on October 4, 2017.

In the arbitration decision, the deputy commissioner found claimant failed to carry her burden of proof that she sustained permanent disability as a result of a stipulated incident which arose out of and in the course of claimant's employment with defendant-employer on December 5, 2014. The deputy commissioner found claimant failed to carry her burden of proof she was entitled to temporary disability benefits from February 25, 2017, through May 30, 2017. The deputy commissioner found claimant failed to carry her burden of proof that defendants are liable for the medical charges itemized in Exhibit 3. The deputy commissioner ordered the parties to pay their own costs of the arbitration proceeding.

On appeal, Claimant asserts the deputy commissioner erred in failing to find claimant is entitled to temporary disability benefits, permanent disability benefits, and medical benefits. Claimant also asserts the deputy commissioner erred in failing to find claimant is entitled to reimbursement from defendants for her costs of the arbitration proceeding.

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.

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 January 10, 2018, 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 carry her burden of proof that she sustained any permanent disability as a result of the December 5, 2014, work injury. I affirm the deputy commissioner's finding that claimant failed to prove she is entitled to receive permanent partial disability benefits. I affirm the deputy commissioner's finding that claimant failed to prove she is entitled to receive permanent total disability benefits under either the traditional industrial disability analysis or under the odd-lot analysis. I affirm the deputy commissioner's finding that claimant failed to prove entitlement to temporary disability benefits from February 25, 2017, through May 30, 2017. 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 all of the above issues. I provide the following additional analysis for my decision:

Claimant alleged injuries to her head, left shoulder, left upper extremity, neck, and back. On the hearing report, the parties stipulated claimant sustained an injury on December 5, 2014. However, defendants limited their stipulation to a temporary injury to claimant's neck and head. Defendants denied the remaining claims of injury. While it is not expressly stated in the arbitration decision, it is clear the deputy commissioner found claimant failed to prove that the alleged injuries to her left shoulder, left upper extremity, and back arose out of and in the course of her employment with the defendant-employer, in addition to the deputy commissioner's finding that claimant failed to prove permanent injuries to her head and neck. Additionally, it is clear the deputy commissioner rejected Dr. Stoken's diagnosis of chronic regional pain syndrome in the left upper extremity as being causally related to the December 5, 2014, work injury. I affirm the deputy commissioner's findings in those regards.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on January 10, 2018, 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.

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 30th day of April, 2019.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

Copies to:

Tom L. Drew
Attorney at Law
PO Box 12129
Des Moines, IA 50312-9403
tdrew@drewlawfirm.com

Deena A. Townley
Attorney at Law
4280 Sergeant Rd., Ste. 290
Sioux City, IA 51106
townley@klasslaw.com