

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

FIKRET KARAJIC,

Claimant,

vs.

TYSON FRESH MEATS, INC.,

Self-Insured Employer,
Defendant.

File No. 5048565

A P P E A L

D E C I S I O N

FILED

FEB 14 2017

WORKERS' COMPENSATION

Head Note Nos: 1108, 1801.1

Claimant Fikret Karajic appeals from an arbitration decision filed on July 20, 2015. Defendant Tyson Fresh Meats responds to the appeal. The case was heard on April 29, 2015, and it was considered fully submitted in front of the deputy workers' compensation commissioner on May 29, 2015.

The deputy commissioner found claimant carried his burden of proof that he sustained an injury on April 3, 2012, which arose out of and in the course of his employment with defendant. The deputy commissioner found claimant failed to carry his burden of proof that the work injury resulted in any permanent disability. The deputy commissioner found claimant is not entitled to industrial disability benefits for the work injury. The deputy commissioner found claimant is entitled to \$190.41 in temporary partial disability (TPD) benefits from May 15, 2012, to May 23, 2012. The deputy commissioner found claimant is not entitled to TPD benefits from May 24, 2012, through December 14, 2013. The deputy commissioner found claimant is not entitled to payment of requested past medical expenses itemized in Exhibit 14. 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 carry his burden of proof that the work injury resulted in any permanent disability. Claimant asserts the deputy commissioner erred in failing to find claimant is entitled to an award of substantial industrial disability for the work injury. Claimant asserts the deputy commissioner erred in failing to find claimant is entitled to an award of TPD benefits from May 24, 2012, through December 14, 2013. Claimant asserts the deputy commissioner erred in failing to find claimant is entitled to payment of requested past medical expenses itemized in Exhibit 14.

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.

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 July 20, 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 sustained an injury on April 3, 2012, which arose out of and in the course of his employment with defendant. I affirm the deputy commissioner's finding that claimant failed to carry his burden of proof that the work injury resulted in any permanent disability. I affirm the deputy commissioner's finding that claimant is not entitled to industrial disability benefits for the work injury. I affirm the deputy commissioner's finding that claimant is entitled to \$190.41 in TPD benefits from May 15, 2012, to May 23, 2012. I affirm the deputy commissioner's finding that claimant is not entitled to TPD benefits from May 24, 2012, through December 14, 2013. I affirm the deputy commissioner's finding that claimant is not entitled to payment of requested past medical expenses itemized in Exhibit 14. I also 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.

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 of July 20, 2015, is affirmed in its entirety.

Defendant shall pay claimant one hundred ninety dollars and 41/100 cents (\$190.41) in temporary partial disability benefits from May 15, 2012, to May 23, 2012.

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 this 14th day of February, 2017.

Joseph S. Cortese II

JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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