

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

BRIAN RAWLINGS,

Claimant,

vs.

G & P TRUCK LINES,

Employer,

and

CONTINENTAL INDEMNITY
COMPANY,Insurance Carrier,
Defendants.

File No. 5057925

A P P E A L

D E C I S I O N

Head Note Nos: 1108.50; 1402.20; 5-9998

Claimant Brian Rawlings appeals from an arbitration decision filed on February 28, 2018, and from a ruling on claimant's request for rehearing/reconsideration filed on March 5, 2018. Defendants G & P Truck Lines, employer, and Continental Indemnity Company, insurance carrier, respond to the appeal. The case was heard on December 20, 2017, and it was considered fully submitted in front of the deputy workers' compensation commissioner on February 9, 2018.

The deputy commissioner found claimant failed to carry his burden of proof that he sustained an injury which arose out of and in the course of his employment with defendant-employer. Because the deputy commissioner found claimant failed to prove causation and compensability with regard to the alleged injury, the deputy commissioner found all other issues raised in this matter are moot, including (1) whether claimant provided timely notice of the alleged injury to defendants under Iowa Code section 85.23, (2) whether claimant is entitled to receive temporary disability benefits, (3) whether claimant is entitled to receive permanent disability benefits, (4) what is the correct commencement date for permanent disability benefits, (5) whether claimant is entitled to receive reimbursement from defendants for requested past medical expenses, and (6) whether claimant is entitled to payment by defendants for ongoing medical expenses. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$1,864.00.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant failed to carry his burden of proof to establish he sustained a work-related injury. Claimant asserts the deputy commissioner erred in finding all other issues raised in this matter are moot.

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 February 28, 2018, and the ruling on claimant's request for rehearing/reconsideration filed on March 5, 2018, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis of all 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 to establish he sustained a work-related injury. I affirm the deputy commissioner's finding that all other issues raised in this matter are moot. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$1,864.00.

Some of the findings by the deputy commissioner in the arbitration decision were based on the deputy commissioner's findings regarding claimant's credibility. The deputy commissioner found claimant was not credible. Claimant asserts the deputy commissioner erred in finding claimant was not credible. Defendants assert the deputy commissioner's findings regarding claimant's credibility should be affirmed. 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 a claimant by the deputy commissioner who presided at the arbitration hearing. I find the deputy commissioner correctly assessed claimant's credibility in this matter. I find nothing in the record in this matter which would cause me to reverse the deputy commissioner's finding that claimant was not credible.

I affirm the deputy commissioner's findings, conclusions and analysis regarding all of the above issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on February 28, 2018, and the ruling on claimant's request for rehearing/reconsideration filed on March 5, 2018, are affirmed in their entirety.

Claimant shall take nothing from these proceedings.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of one thousand eight hundred sixty-four and no/100 dollars (\$1,864.00), 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 6th day of September, 2019.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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