

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

BRANDON EASTON,

Claimant,

vs.

MIKE MCMURRIN TRUCKING,

Employer,

and

WESTERN NATIONAL MUTUAL
INSURANCE CO.,

Insurance Carrier,
Defendants.

FILED
OCT - 9 2018
WORKERS' COMPENSATION

File No. 5056183

A P P E A L

D E C I S I O N

Head Note No: 1801

Claimant Brandon Easton appeals from an arbitration decision filed on April 26, 2017. Defendants Mike McMurrin Trucking, employer, and its insurer, Western National Mutual Insurance Co., respond to the appeal. The case was heard on February 7, 2017, and it was considered fully submitted in front of the deputy workers' compensation commissioner on March 6, 2017.

The deputy commissioner found claimant failed to carry his burden of proof that an offer of light duty work made by defendants to claimant on May 16, 2016, was unreasonable. The deputy commissioner found that because claimant failed to prove the offer of light duty work was unreasonable, pursuant to Iowa Code section 85.33(3) claimant also failed to prove he is entitled to receive a running award of temporary total disability benefits commencing on May 23, 2016. The deputy commissioner awarded claimant nothing in the way of weekly benefits. 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 offer of light duty work made by defendants to claimant on May 16, 2016, was unreasonable. Claimant asserts the deputy commissioner erred in finding claimant failed to prove he is entitled to receive a running award of temporary total disability benefits commencing on May 23, 2016.

Claimant asserts the deputy commissioner erred in awarding claimant nothing in the way of weekly 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.

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 April 26, 2017, 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 his burden of proof that the offer of light duty work made by defendants to claimant on May 16, 2016, was unreasonable. I affirm the deputy commissioner's finding that claimant failed to prove he is entitled to receive a running award of temporary total disability benefits commencing on May 23, 2016. I affirm the deputy commissioner's finding that claimant is entitled to receive nothing in the way of weekly benefits. 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 those issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on April 26, 2017, is affirmed in its entirety.

Claimant shall taking 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, 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 9th day of October, 2018.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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