

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

MARGARET MACNISH,

Claimant,

vs.

CRST VAN EXPEDITED, INC.,

Employer,
Self-Insured,
Defendant.

File No. 5059211

A P P E A L

D E C I S I O N

Head Notes: 1402.20; 1801; 1802; 2501;
2502; 2701; 2907; 5-9998

Claimant Margaret MacNish appeals from an arbitration decision filed on October 31, 2019. Defendant CRST Van Expedited, Inc., self-insured employer, responds to the appeal. The case was heard on July 26, 2019, and it was considered fully submitted in front of the deputy workers' compensation commissioner on September 13, 2019.

The deputy commissioner found claimant was not credible. The deputy commissioner found claimant failed to satisfy her burden of proof to establish she sustained an injury on July 10, 2016, that arose out of and in the course of her employment with defendant as alleged. The deputy commissioner found that because claimant failed to prove compensability, all other issues raised in this matter are moot, including whether claimant is entitled to receive temporary disability benefits, permanent disability benefits, medical benefits, and alternate medical care. The deputy commissioner found that pursuant to Iowa Code section 85.39, claimant is not entitled to receive reimbursement from defendant for the cost of the independent medical evaluation (IME) of claimant performed by Sunil Bansal, M.D., on June 11, 2019. The deputy commissioner ordered the parties to pay their own costs of the arbitration proceeding.

On appeal, claimant asserts the deputy commissioner erred in finding claimant was not credible, and in finding claimant failed to prove she sustained a work-related injury. Because she alleges she sustained a work-related injury, claimant asserts it should be found on appeal that she is entitled to receive temporary and permanent disability benefits, along with reimbursement for past medical care for the alleged work injury, and alternate medical care. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to receive reimbursement for the cost of Dr. Bansal's IME.

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.

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 October 31, 2019, 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.

While I performed a de novo review, I give considerable deference to findings of fact that are impacted by the credibility findings, expressly or impliedly made, by the deputy commissioner who presided at the arbitration hearing. The deputy commissioner found claimant was not credible. I find the deputy commissioner correctly assessed the credibility of claimant. I find nothing in the record in this matter which would cause me to reverse the deputy commissioner's credibility findings.

I affirm the deputy commissioner's finding that claimant failed to prove she sustained an injury that arose out of and in the course of her employment with defendant as alleged. I affirm the deputy commissioner's finding that because claimant failed to prove compensability, all other issues raised in this matter are moot, including whether claimant is entitled to receive temporary disability benefits, permanent disability benefits, medical benefits, and alternate medical care. I affirm the deputy commissioner's finding that pursuant to Iowa Code section 85.39, claimant is not entitled to receive reimbursement from defendant for the cost of Dr. Bansal's IME. 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

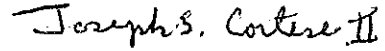
IT IS THEREFORE ORDERED that the arbitration decision filed on October 31, 2019, is affirmed in its entirety.

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, 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 on this 6th day of October, 2020.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Margaret MacNish
PRO SE CLAIMANT (Via WCES)
and by certified mail to:
4005 Little River Rd
Hendersonville, NC 28739

Chris Scheldrup (Via WCES)