

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

BRIAN BARRY,

Claimant,

vs.

JOHN DEERE DUBUQUE WORKS
OF DEERE & COMPANY,Employer,
Self-Insured,
Defendant.

File No. 5055977.01

A P P E A L

D E C I S I O N

Head Notes: 1402.40; 1803; 2905; 2907;
5-9998

Claimant Brian Barry appeals from a review-reopening decision filed on April 23, 2021. Defendant John Deere Dubuque Works of Deere & Company, self-insured employer, responds to the appeal. The case was heard on December 15, 2020, and it was considered fully submitted in front of the deputy workers' compensation commissioner on January 15, 2021.

In the review-reopening decision, the deputy commissioner found claimant failed to carry his burden of proof to establish he sustained a significant physical change in condition causally related to his October 17, 2013, work injury after the arbitration hearing was held in this matter on February 14, 2017. As a result, the deputy commissioner found claimant failed to prove he is entitled to review-reopening, and the deputy commissioner found claimant failed to prove he is entitled to receive additional permanent disability benefits. The deputy commissioner ordered the parties to pay their own costs of the review-reopening proceeding.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant failed to prove he sustained a significant physical change in condition causally related to the work injury. Claimant asserts that the deputy commissioner erred in finding claimant failed to prove entitlement to review-reopening, and in finding claimant is not entitled to receive additional permanent partial disability benefits for the work injury. Claimant asserts the deputy commissioner erred in failing to order defendant to pay claimant's costs of the review-reopening proceeding.

Defendant asserts on appeal that the review-reopening decision should be affirmed in its entirety.

Those portions of the proposed review-reopening 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 review-reopening decision filed on April 23, 2021, 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 review-reopening 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 prove he sustained a significant physical change in condition causally related to the work injury after the arbitration hearing was held in this matter on February 14, 2017. I affirm the deputy commissioner's finding that claimant failed to prove he is entitled to review-reopening, and I affirm the deputy commissioner's finding that claimant failed to prove he is entitled to receive additional permanent disability benefits. I affirm the deputy commissioner's order that the parties pay their own costs of the review-reopening proceeding.

I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

ORDER

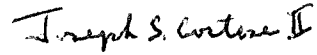
IT IS THEREFORE ORDERED that the review-reopening decision filed in this matter on April 23, 2021, is affirmed in its entirety

Claimant shall take nothing further from these proceedings.

Pursuant to rule 876 IAC 4.33, the parties shall pay their own costs of the review-reopening 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 3rd day of August, 2021.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Thomas Wertz (via WCES)

Dirk Hamel (via WCES)