

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

ZACHARY J. HUFF,

Claimant,

vs.

ALCOA, INC.,

Employer,

and

INDEMNITY INSURANCE COMPANY
OF NORTH AMERICA,

Insurance Carrier,
Defendants.

FILED

MAR 30 2018

WORKERS' COMPENSATION

File No. 5052230

A P P E A L

D E C I S I O N

Head Note Nos: 1100; 1404.20; 1802;
1803, 2907; 5-9998

Defendants ALCOA, Inc., employer, and its insurer, Indemnity Insurance Company of North America, appeal from an arbitration decision filed on November 3, 2016. Claimant Zachary J. Huff responds to the appeal. The case was heard on February 3, 2016, and it was considered fully submitted in front of the deputy workers' compensation commissioner on March 14, 2016.

The deputy commissioner found claimant carried his burden of proof that he sustained an injury which arose out of and in the course of his employment with defendant-employer on March 21, 2013. The deputy commissioner found claimant is entitled to receive healing period benefits from April 17, 2013, through June 5, 2013, from July 11, 2014, through August 14, 2014, and from November 20, 2014, through June 26, 2015. The deputy commissioner found claimant sustained 25 percent industrial disability as a result of the work injury, which entitles claimant to receive 125 weeks of permanent partial disability (PPD) benefits commencing on June 27, 2015. The deputy commissioner found that pursuant to Iowa Code section 85.38(2), defendants are entitled to receive a credit in the amount of \$18,653.70 for disability benefits paid by defendants. The deputy commissioner found claimant's medical treatment and surgeries after June 2013 were related to the work injury. The deputy commissioner found that pursuant to Iowa Code section 85.39, claimant is not entitled to reimbursement for the cost of the independent medical evaluation (IME) performed by Richard Kreiter, M.D. The deputy commissioner also ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$195.00.

Defendants assert on appeal that the deputy commissioner erred in finding claimant carried his burden of proof that he sustained a work-related injury on March 21, 2013. Defendants assert the deputy commissioner erred in finding claimant is entitled to receive healing period benefits from April 17, 2013, through June 5, 2013, from July 11, 2014, through August 14, 2014, and from November 20, 2014, through June 26, 2015. Defendants assert the deputy commissioner erred in finding claimant sustained 25 percent industrial disability as a result of the alleged injury. Defendants assert the deputy commissioner erred in finding claimant's medical treatment and surgeries after June 2013 were related to the work injury.

Claimant 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 November 3, 2016, 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 carried his burden of proof that he sustained a work-related injury on March 21, 2013. I affirm the deputy commissioner's finding that claimant is entitled to receive healing period benefits from April 17, 2013, through June 5, 2013, from July 11, 2014, through August 14, 2014, and from November 20, 2014, through June 26, 2015. I affirm the deputy commissioner's finding that claimant sustained 25 percent industrial disability as a result of the work injury. I affirm the deputy commissioner's finding that defendants are entitled to receive a credit in the amount of \$18,653.70 for disability benefits paid by defendants. I affirm the deputy commissioner's finding that claimant's medical treatment and surgeries after June 2013 were related to the work injury. I affirm the deputy commissioner's finding that pursuant to Iowa Code section 85.39, claimant is not entitled to reimbursement for the cost of Dr. Kreiter's IME. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$195.00. 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. The deputy commissioner found claimant to be credible. Defendants assert claimant was not credible. I find the deputy commissioner correctly assessed 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. I find nothing in the record in this matter which would cause me to reverse the deputy commissioner's findings regarding claimant's credibility.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on November 3, 2016, is affirmed in its entirety.

Defendants shall pay claimant healing period benefits from April 17, 2013, through June 5, 2013, from July 11, 2014, through August 14, 2014, and from November 20, 2014, through June 26, 2015, at the weekly rate of six hundred eighty-two and 78/100 dollars (\$682.78).

Defendants shall pay claimant one hundred twenty-five (125) weeks of permanent partial disability benefits at the weekly rate of six hundred eighty-two and 78/100 dollars (\$682.78) commencing June 27, 2015.

Defendants shall receive a credit for all benefits previously paid.

Pursuant to Iowa Code section 85.38(2), defendants shall receive a credit in the amount of eighteen thousand six hundred fifty-three and 70.100 dollars (\$18,653.70) for the prior payment of disability benefits.

Defendants shall pay accrued weekly benefits in a lump sum together with interest pursuant to Iowa Code section 85.30.

Defendants are responsible for the cost of claimant's medical treatment and surgeries after June 2013.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of \$195.00, and defendants 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 30th day of March, 2018.

Joseph S. Cortese II

JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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