

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

CHERYL MCKOY, a/k/a CHERYL
JACOBSON,

Claimant,

vs.

ITA GROUP, INC.,

Employer,

and

TWIN CITY FIRE INS. CO.,

Insurance Carrier,
Defendants.

File No. 5065221.01

A P P E A L
D E C I S I O N

Head Notes: 3400; 5-9998

Claimant Cheryl McKoy, a/k/a Cheryl Jacobson (respondent), appeals from an arbitration decision filed on August 9, 2021. Defendants ITA Group, Inc., employer, and its insurer, Twin City Fire Ins. Co. (petitioners), respond to the appeal. The case was submitted on the record on February 9, 2021, and it was considered fully submitted in front of the deputy workers' compensation commissioner on February 17, 2021.

In the arbitration decision, the deputy commissioner found that pursuant to Iowa Code Section 85.22, petitioners are entitled to receive reimbursement for their workers' compensation lien totaling \$148,501.60 from respondent's third-party settlement in the amount of \$175,000.00.

Respondent asserts on appeal that the deputy commissioner erred in finding petitioners are entitled to receive any reimbursement for their workers' compensation lien from respondent's third-party settlement.

Petitioners assert on appeal that the arbitration decision should be affirmed in its entirety.

Those portions of the proposed arbitration 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 August 9, 2021, 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 pursuant to Iowa Code Section 85.22, petitioners are entitled to receive reimbursement for their workers' compensation lien from respondent's third-party settlement. I affirm the deputy commissioner's finding that of the total amount of \$175,000.00 received by claimant for the third-party settlement, respondent's counsel is entitled to receive \$58,333.33 in attorney's fees (\$175,000.00 x one-third) and petitioners are entitled to receive the remaining \$116,666.67 as reimbursement for their lien for indemnity and medical benefits paid.

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

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on August 9, 2021, is affirmed in its entirety.

Petitioners shall receive one hundred sixteen thousand six hundred sixty-six and 67/100 dollars (\$116,666.67) in reimbursement for their lien for indemnity and medical benefits paid under respondent's workers' compensation claim.

Claimant's counsel shall receive fifty-eight thousand three hundred thirty-three and 33/100 dollars (\$58,333.33) in attorney's fees from the third-party settlement.

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, if any.

Pursuant to rule 876 IAC 3.1(2), petitioners shall file subsequent reports of injury as required by this agency.

Signed and filed on this 2nd day of December, 2021.

Joseph S. Cortese II

JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Robert Tucker (via WCES)

Jessica Voelker (via WCES)