

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

FILED

SEP 11 2018

WORKERS' COMPENSATION

COLLINE MARQUETTE,

Claimant,

vs.

JOHN DEERE DAVENPORT WORKS
and JOHN DEERE CONSTRUCTION
and FORESTRY COMPANY,

Employer,
Self-Insured,
Defendants.

File No. 5055018

A P P E A L

D E C I S I O N

Head Note Nos: 1108.50; 1402.20; 5-9998

Claimant Colline Marquette appeals from an arbitration decision filed on February 14, 2017. Defendant John Deere Davenport Works and John Deere Construction and Forestry Company, self-insured employer, responds to the appeal. The case was heard in two sessions on October 26, 2016, and on November 14, 2016, and it was considered fully submitted in front of the deputy workers' compensation commissioner on December 12, 2016.

The deputy commissioner found claimant failed to carry her burden of proof that she sustained either an acute injury or a cumulative trauma injury which arose out of and in the course of her employment with defendant on or about November 7, 2013, as alleged. Because the deputy commissioner found claimant failed to carry her burden of proof on the issues of causation and compensability regarding claimant's alleged injury, the deputy commissioner found all other issues raised in this matter are moot, including whether claimant proved entitlement to temporary disability benefits, permanent disability benefits and medical benefits. Because the deputy commissioner found claimant failed to carry her burden of proof on the issues of causation and compensability, the deputy commissioner found defendant's Iowa Code section 85.23 90-day notice defense and defendant's Iowa Code section 85.26 statute of limitations defense are also moot. 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 her burden of proof that she sustained either an acute work-related injury or a cumulative trauma work-related injury on or about November 7, 2013, as alleged. Claimant asserts the deputy commissioner erred in finding claimant failed to prove entitlement to temporary disability benefits, permanent disability benefits and medical 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 February 14, 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 her burden of proof that she sustained either an acute work-related injury or a cumulative trauma work-related injury on or about November 7, 2013, as alleged. I affirm the deputy commissioner's finding that all other issues raised in this matter are moot, including whether claimant proved entitlement to temporary disability benefits, permanent disability benefits and medical benefits. I affirm the deputy commissioner's finding that defendant's Iowa Code section 85.23 90-day notice defense and defendant's Iowa Code section 85.26 statute of limitations defense are also moot. 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.

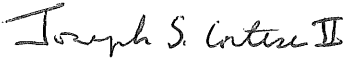
ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on February 14, 2017, 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.

Signed and filed on this 11th day of September, 2018.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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