

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

HOWARD YOUNG,

Claimant,

vs.

IRISH CLEAN, INC.,

Employer,

and

STATE FARM INSURANCE
COMPANIES,

Insurance Carrier,
Defendants.

File Nos. 5046966, 5046967

FILED

MAR 13 2017

A P P E A L WORKERS' COMPENSATION

D E C I S I O N

Head Note Nos: 1100; 1402; 1403.30;
1800; 2401, 5-9998

Claimant Howard Young appeals from an arbitration decision filed on October 8, 2015. Defendants Irish Clean, Inc., employer, and its insurer, State Farm Insurance Companies, respond to the appeal. The case was heard on July 2, 2015, and it was considered fully submitted in front of the deputy workers' compensation commissioner on August 19, 2015.

In File No. 5046966, alleged injury date of July 30, 2013, the deputy commissioner found claimant failed to carry his burden of proof he sustained an injury which arose out of and in the course of his employment with defendant-employer. The deputy commissioner also found even if claimant did establish he sustained a work-related injury on July 30, 2013, defendants did prove claimant failed to provide notice of the alleged injury within 90 days as required by Iowa Code section 85.23. Claimant was awarded nothing in File No. 5046966. The deputy commissioner ordered the parties to bear their own costs in File No. 5046966.

Because the deputy commissioner found claimant failed to carry his burden of proof on the issues of causation and compensability in File No. 5046966, the deputy commissioner found all other issues raised by claimant in File No. 5046966 are moot. Those other issues included the following: what is the correct amount of claimant's gross average weekly earnings for the alleged injury, whether claimant is entitled to temporary disability benefits, whether claimant is entitled to permanent disability

benefits, whether claimant is entitled to payment of unpaid medical expenses, whether claimant is entitled to alternate medical care for the alleged injury, and whether an apportionment applies under Iowa Code section 85.34(7).

In File No. 5046967, alleged injury date of January 21, 2014, the deputy commissioner found claimant did carry his burden of proof he sustained an injury which arose out of and in the course of his employment with defendant-employer as alleged on January 21, 2014. However, the deputy commissioner found claimant failed to carry his burden of proof he is entitled to either temporary disability benefits or to permanent disability benefits for the injury. Claimant was awarded nothing in File No. 5046967. The deputy commissioner ordered the parties to bear their own costs in File No. 5046967.

Because the deputy commissioner found claimant failed to carry his burden of proof on the issues of causation and compensability in File No. 5046967, the deputy commissioner found all other issues raised by claimant in File No. 5046967 are moot. Those other issues included the following: what is the correct amount of claimant's gross average weekly earnings for the injury, whether claimant is entitled to payment of unpaid medical expenses, whether claimant is entitled to alternate medical care for the injury, and whether an apportionment applies under Iowa Code section 85.34(7).

In File No. 5046966, claimant asserts on appeal that the deputy commissioner erred in finding claimant failed to carry his burden of proof he sustained an injury arising out of and in the course of his employment on July 30, 2013, as alleged. Claimant also asserts the deputy commissioner erred in finding all other issues raised by claimant in File No. 5046966 are moot.

In File No. 5046967, claimant asserts on appeal that the deputy commissioner erred in finding claimant failed to carry his burden of proof he is entitled to either temporary disability benefits or to permanent disability benefits for the injury which occurred on January 21, 2014. Claimant also asserts the deputy commissioner erred in finding all other issues raised by claimant in File No. 5046967 are moot.

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.

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 October 8, 2015, 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.

In File No. 5046966, I affirm the deputy commissioner's finding claimant failed to carry his burden of proof he sustained an injury arising out of and in the course of his employment on July 30, 2013, as alleged. I affirm the deputy commissioner's finding claimant is entitled to take nothing in this matter. I affirm the deputy commissioner's finding that because claimant failed to carry his burden of proof on the issues of causation and compensability, all other issues raised by claimant in File No. 5046966 are moot. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

In File No. 5046967, I affirm the deputy commissioner's finding claimant failed to carry his burden of proof he is entitled to either temporary disability benefits or to permanent disability benefits for the injury which occurred on January 21, 2014. I affirm the deputy commissioner's finding claimant is entitled to take nothing in this matter. I affirm the deputy commissioner's finding that because claimant failed to carry his burden of proof on the issues of causation and compensability, all other issues raised by claimant in File No. 5046967 are moot. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision of October 8, 2015, is affirmed in its entirety.

Regarding File No. 5046966 - Alleged Injury Date of July 30, 2013:

Claimant shall take nothing from these proceedings.

Regarding File No. 5046967 - Injury Date of January 21, 2014:

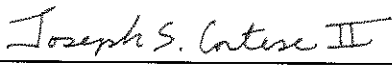
Claimant shall take nothing from these proceedings.

Regarding both File Numbers:

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), defendants shall file subsequent reports of injury as required by this agency.

Signed and filed this 13th day of March, 2016.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

Copies To:

Nate Willems
Robert R. Rush
Attorneys at Law
PO Box 637
Cedar Rapids, IA 52406-0637
Nate@rushnicholson.com
bob@rushnicholson.com

Peter J. Thill
Attorney at Law
1900 54th St.
Davenport, IA 52807
pjt@bettylawfirm.com