

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

SHARON MURPHY,

Claimant,

vs.

OTTUMWA REGIONAL HEALTH CENTER,

Employer,

SAFETY NATIONAL CASUALTY CORP.,

Defendants.

File No. 21006375.01

A P P E A L

D E C I S I O N

Head Notes: 1402.30; 5-9999

Claimant Sharon Murphy appeals from an arbitration decision filed on April 28, 2023. Defendants Ottumwa Regional Health Center, employer, and its insurer, Safety National Casualty Corporation, respond to the appeal. The case was heard on January 6, 2023, and it was considered fully submitted in front of the deputy workers' compensation commissioner on February 17, 2023.

In the arbitration decision, the deputy commissioner found claimant's injury is the result of an unexplained fall from a level surface onto the same level service. As a result, the deputy commissioner found claimant's injury did not arise out of claimant's employment pursuant to Iowa Code section 85.61(7)(c).

Claimant asserts on appeal that the deputy commissioner erred by using an inappropriate legal burden. Claimant asserts Iowa Code section 85.61(7)(c) establishes an affirmative defense and claimant asserts defendants failed to prove claimant's injury was unexplained. Claimant asserts she found a paperclip in the sole of one of the shoes she was wearing on the date of injury and claimant asserts it is most likely she slipped on the paperclip, causing her fall. Therefore, claimant asserts her injury should be found to have arisen out of her employment and should be compensated.

Defendants assert on appeal that Iowa Code section 85.61(7)(c) defines whether an unexplained fall from a level surface to the same level surface legally arises out of claimant's employment. Defendants assert the burden of proof remains with claimant and defendants assert claimant did not carry that burden of proof. Therefore, defendants assert 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 part of this appeal decision.

I 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.15 and 86.24, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed on April 28, 2023, 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.

On appeal, claimant asserts the deputy commissioner applied the wrong legal burden. Claimant asserts Iowa Code section 85.61(7)(c) establishes an affirmative defense that must be proven by defendants. I reject claimant's contention. Iowa Code section 85.61 contains definitions pertinent to the remainder of the Iowa workers' compensation statutes. The statute defines when an unexplained fall is not considered legally to have arisen out of employment. Iowa Code section 85.61(7)(c). I find the burden of proof to establish her injury arose out of her employment remained with claimant and I find claimant failed to carry that burden of proof.

However, even if claimant is accurate and Iowa Code section 85.61(7)(c) establishes an affirmative defense, I find defendants proved by a preponderance of the evidence that claimant's fall was unexplained and that it occurred from a level surface onto the same level surface. Ultimately, I affirm the deputy commissioner's findings and conclusion that claimant's injury occurred as a result of an unexplained fall from a level surface onto the same level surface. By definition, claimant's fall did not arise out of her employment and is not compensable. Iowa Code section 85.61(7)(c).

I affirm the deputy commissioner's findings, conclusions, and analysis regarding the above-stated issues.

ORDER

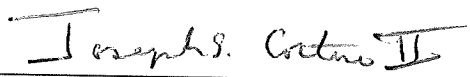
IT IS THEREFORE ORDERED that the arbitration decision filed on April 28, 2023, is affirmed in its entirety.

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.

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 16th day of October, 2023.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Jason Neifert (via WCES)

Lara Plaisance (via WCES)