

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

GREGORY WEST,

File No. 20001935.01

Claimant,

A P P E A L

vs.

D E C I S I O N

SECOND INJURY FUND OF IOWA,

Defendant.

Head Notes: 1402.20; 1402.40; 1803;
2200; 3202; 3203; 2907;
5-9998

Claimant Gregory West appeals from an arbitration decision filed on December 7, 2021. Defendant Second Injury Fund of Iowa (the Fund) responds to the appeal. The case was heard on July 9, 2021, and it was considered fully submitted in front of the deputy workers' compensation commissioner on July 30, 2021.

In the arbitration decision, the deputy commissioner found the permanent disability sustained by claimant as a result of the stipulated June 21, 2019, work injury is confined to claimant's left shoulder. The deputy commissioner found that because a shoulder injury is not one of the enumerated scheduled member injuries under Iowa Code section 85.64 which triggers entitlement to benefits from the Fund, claimant cannot receive any benefits from the Fund in this matter. The deputy commissioner found that all other issues raised in this matter are 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's permanent disability resulting from the work injury is confined to claimant's left shoulder. Claimant asserts it should also be found he sustained permanent disability of his left arm as a result of the work injury, which triggers entitlement to benefits from the Fund. Claimant asserts the deputy commissioner erred in finding all other issues raised in this matter are moot.

The Fund 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.

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 December 7, 2021, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis of all 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 the permanent disability sustained by claimant as a result of the work injury is confined to claimant's left shoulder. I affirm the deputy commissioner's finding that because a shoulder injury is not one of the enumerated scheduled member injuries under Iowa Code section 85.64 which triggers entitlement to benefits from the Fund, claimant cannot recover any benefits from the Fund in this matter. I affirm the deputy commissioner's finding that all other issues raised in this matter are 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 the above-stated issues.

ORDER

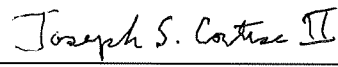
IT IS THEREFORE ORDERED that the arbitration decision filed in this matter on December 7, 2021, is affirmed in its entirety.

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

Signed and filed on this 21st day of April, 2022.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Nate Willems (via WCES)

Sarah Timko (via WCES)