

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

ANTONIO GARCIA,

Claimant,

vs.

CARGILL MEAT SOLUTIONS CORP.
(n/k/a JBS USA),

Employer,

and

OLD REPUBLIC INSURANCE
COMPANY,

Insurance Carrier,
Defendants.

FILED

DEC - 7 2018

WORKERS' COMPENSATION

File No. 5056121

A P P E A L

D E C I S I O N

: Head Note Nos: 1108.50; 1402.40; 1403.30;
: 1403.30, 1801, 1803;
: 1803.1; 5-9998
:

Claimant Antonio Garcia appeals from an arbitration decision filed on May 23, 2017. Defendants Cargill Meat Solutions Corp. (n/k/a JBS USA), employer, and its insurer, Old Republic Insurance Company, respond to the appeal. The case was heard on February 14, 2017, and it was considered fully submitted in front of the deputy workers' compensation commissioner on March 13, 2017.

The deputy commissioner found claimant failed to carry his burden of proof that the stipulated right upper extremity injury which arose out of and in the course of claimant's employment with defendant-employer on or about June 5, 2014, extended beyond claimant's right upper extremity into his right shoulder. The deputy commissioner found claimant failed to prove he is entitled to receive healing period benefits or permanent disability benefits for the work injury. The deputy commissioner ordered the parties to pay their own costs of the appeal.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant failed to carry his burden of proof that he sustained a right shoulder injury as a result of the June 5, 2014, work injury. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to receive industrial disability benefits for the work injury. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to receive healing period benefits from September 5, 2014, through September 1, 2015. Claimant asserts the deputy commissioner erred in failing to order defendants to pay claimant's costs of the arbitration proceeding.

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 May 23, 2017, 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 claimant failed to carry his burden of proof that the June 5, 2014, work injury extended beyond claimant's right upper extremity into his right shoulder. I affirm the deputy commissioner's finding that claimant failed to prove he is entitled to receive healing period benefits or permanent disability benefits for the work injury. I affirm the deputy commissioner's order that the parties pay their own costs of the appeal. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

ORDER

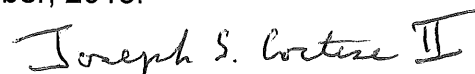
IT IS THEREFORE ORDERED that the arbitration decision filed on May 23, 2017, is affirmed in its entirety.

Claimant shall take nothing further 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 7th day of December, 2018.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

Copies to:

James C. Byrne
Attorney at Law
1441 – 29th St., Ste. 111
West Des Moines, IA 50266-1309
jbyrne@nbolawfirm.com

Patrick V. Waldron
Attorney at Law
505 Fifth Ave., Ste. 729
Des Moines, IA 50309
pwaldron@pattersonfirm.com