

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

MICHAEL KAESBAUER,	:	
	:	
Claimant,	:	
	:	
vs.	:	
	:	File No. 5064405
ESTES EXPRESS LINES, INC.,	:	
	:	A P P E A L
Employer,	:	
	:	D E C I S I O N
and	:	
	:	
NEW HAMPSHIRE INSURANCE CO.,	:	
	:	Head Notes: 1402.30; 1801; 1803; 1804;
Insurance Carrier,	:	2501; 2502; 2701; 2907;
Defendants.	:	5-9998

Claimant Michael Kaesbauer appeals from an arbitration decision filed on August 29, 2019. Defendants Estes Express Lines, Inc., employer, and its insurer, New Hampshire Insurance Company, respond to the appeal. The case was heard on June 4, 2019, and it was considered fully submitted in front of the deputy workers' compensation commissioner on July 2, 2019.

The deputy commissioner found claimant failed to carry his burden of proof to establish he sustained an injury that arose out of and in the course of his employment as alleged. The deputy commissioner found that because claimant failed to prove causation and compensability, all other issues raised in this matter are moot. The deputy commissioner found claimant is not entitled to receive reimbursement from defendants for the cost of his independent medical examination (IME) under either Iowa Code section 85.39 or rule 876 IAC 4.33. The deputy commissioner ordered the parties to pay their own costs of the arbitration proceeding.

On appeal, claimant asserts the deputy commissioner erred in finding claimant failed to prove he sustained a work-related injury. Claimant asserts the deputy commissioner erred in finding all other issues raised in this matter are moot. Claimant asserts it should be found on appeal he is permanently and totally disabled as a result of the alleged injury and is also entitled to receive healing period benefits and medical benefits. Claimant also asserts the deputy commissioner erred in finding he is not entitled to receive reimbursement from defendants for his IME.

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 August 29, 2019, 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 prove he sustained an injury that arose out of and in the course of his employment. I affirm the deputy commissioner's finding that because claimant failed to prove causation and compensability, all other issues raised in this matter are moot. I affirm the deputy commissioner's finding that claimant is not entitled to receive reimbursement from defendants for his IME under either Iowa Code section 85.39 or rule 876 IAC 4.33. 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 August 29, 2019, is affirmed in its entirety.

Claimant shall take nothing from these proceedings.

Pursuant to rule 876 IAC 4.33, each party 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 22nd day of June, 2020.

Joseph S. Cortese II

JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Robert T. Rosenstiel Via WCES

Aaron T. Oliver Via WCES