

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

MICHAEL FURMAN,

Claimant,

vs.

GUARDIAN INDUSTRIES,

Employer,

and

OLD REPUBLIC INSURANCE CO.,

Insurance Carrier,
Defendants.

File No. 19004024.01

A P P E A L

D E C I S I O N

: Head Notes; 1402.20; 1402.40; 1402.60;
: 1802; 1803; 2501; 2502;
: 2701; 2907; 5-9998

Claimant Michael Furman appeals from an arbitration decision filed on August 11, 2022. Defendants Guardian Industries, employer, and its insurer, Old Republic Insurance Company, respond to the appeal. The case was heard on January 6, 2022, and it was considered fully submitted in front of the deputy workers' compensation commissioner on February 21, 2022.

In the arbitration decision, the deputy commissioner found claimant was not a credible witness. The deputy commissioner found claimant failed to carry his burden of proof to establish he sustained a work-related injury on or about September 16, 2019, as alleged. Because the deputy commissioner found against claimant on the issues of causation and compensability, the deputy commissioner found the other issues raised in this matter are moot. The deputy commissioner also found that pursuant to Iowa Code section 85.39, claimant is not entitled to reimbursement from defendants for the cost of the independent medical evaluation (IME) of claimant performed by Sunil Bansal, M.D. 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 was not a credible witness and in finding claimant failed to prove he sustained a work-related injury as alleged. Claimant asserts the deputy commissioner erred in finding the other issues raised in this matter are moot. Claimant asserts the deputy commissioner erred in finding that pursuant to Iowa Code section 85.39, claimant is not entitled to reimbursement from defendants for the cost of Dr. Bansal's IME. 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 arbitration 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 11, 2022, 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.

I affirm the deputy commissioner's finding that claimant failed to prove he sustained a work-related injury on or about September 16, 2019, as alleged. Because I affirm the deputy commissioner's finding against claimant on the issues of causation and compensability, I affirm the deputy commissioner's finding that the other issues raised in this matter are moot. I affirm the deputy commissioner's finding that pursuant to Iowa Code section 85.39, claimant is not entitled to reimbursement from defendants for the cost of Dr. Bansal's IME. I affirm the deputy commissioner's order that the parties pay their own costs of the arbitration proceeding.

While I performed a de novo review, I give considerable deference to findings of fact that are impacted by the credibility findings, expressly or impliedly made, by the deputy commissioner who presided at the arbitration hearing. Claimant asserts the deputy commissioner erred in finding claimant was not a credible witness. I find the deputy commissioner correctly assessed claimant's credibility. I find nothing in the record which would cause me to reverse the deputy commissioner's credibility findings. Therefore, I affirm the deputy commissioner's finding that claimant was not a credible witness.

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

ORDER

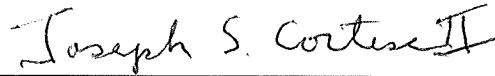
IT IS THEREFORE ORDERED that the arbitration decision filed on August 11, 2022, is affirmed in its entirety.

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 November, 2022.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Nicholas L. Shaul (via WCES)

Abigail A. Wenninghoff (via WCES)