

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JUAN ORDONEZ,

Claimant,

vs.

CITY OF BOUTON,

Employer,

and

IMWCA,

Insurance Carrier,
Defendants.

FILED

JUL 20 2018

WORKERS' COMPENSATION

File No. 5052627

A P P E A L

D E C I S I O N

Head Note Nos: 1400; 1402.30; 5-9998

Claimant Juan Ordonez appeals from an arbitration decision filed on January 19, 2017. Defendants City of Bouton, employer, and its insurer, IMWCA, respond to the appeal. The case was heard on October 13, 2016, and it was considered fully submitted in front of the deputy workers' compensation commissioner on November 4, 2016.

The deputy commissioner found claimant failed to carry his burden of proof that he sustained an injury which arose out of and in the course of his employment with defendant-employer on January 7, 2015, as alleged. Because the deputy commissioner found claimant failed to carry his burden of proof on the issues of causation and compensability regarding claimant's alleged injury, the deputy commissioner found claimant failed to prove entitlement to permanent disability benefits and alternate medical care. Because the deputy commissioner found claimant failed to carry his burden of proof on the issues of causation and compensability, the deputy commissioner found defendants' Iowa Code section 85.23 90-day notice defense is 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 failed to carry his burden of proof that he sustained a work-related injury on January 7, 2015, as alleged. Claimant asserts the deputy commissioner erred in finding claimant failed to prove entitlement to permanent disability benefits and alternate medical care.

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 26, 2016, 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 carry his burden of proof that he sustained a work-related injury on January 7, 2015, as alleged. I affirm the deputy commissioner's finding that claimant failed to prove entitlement to permanent disability benefits and alternate medical care. I affirm the deputy commissioner's finding that defendants' Iowa Code section 85.23 90-day notice defense is 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 those issues.

Some of the findings by the deputy commissioner in the arbitration decision were based on the deputy commissioner's findings regarding claimant's credibility. The deputy commissioner found claimant was not credible. I find the deputy commissioner correctly assessed claimant's credibility. While I performed a de novo review, I give considerable deference to findings of fact which are impacted by the credibility findings, expressly or impliedly made, regarding claimant by the deputy commissioner who presided at the arbitration hearing. I find nothing in the record in this matter which would cause me to reverse the deputy commissioner's findings regarding claimant's lack of credibility.

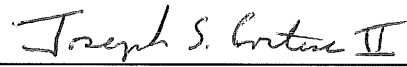
ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on January 19, 2017, 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.

Signed and filed on this 19th day of July, 2018.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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