

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JANET VESEY,

Claimant,

vs.

JOHN DEERE DAVENPORT  
WORKS,

Self-Insured Employer,  
Defendant.

File Nos. 5046996, 5046997,  
5046998

A P P E A L  
D E C I S I O N

**FILED**

APR 5 2017

WORKERS' COMPENSATION

Head Note No.: 1402.30

Claimant Janet Vesey appeals from an arbitration decision filed on September 4, 2015. Defendant John Deere Davenport Works, self-insured employer, responds to the appeal. The case was heard on April 28, 2015, and it was considered fully submitted in front of the deputy workers' compensation commissioner on June 19, 2015.

The deputy commissioner found claimant failed to carry her burden of proof that she sustained cumulative trauma injuries to her bilateral wrists which arose out of and in the course of her employment with defendant on any of the three alleged injury dates: April 18, 2012, October 26, 2012, or April 18, 2013. The deputy commissioner awarded claimant nothing. The deputy commissioner also found claimant was not prejudiced by allowing defendant's witness, Lester Kelty, M.D., to testify live at the arbitration hearing.

Because the deputy commissioner found claimant failed to carry her burden of proof on the issues of causation and compensability, the deputy commissioner found all other issues raised by claimant in the arbitration proceeding to be moot and the deputy commissioner did not address those issues, which included the following: the proper legal cumulative injury date for claimant's alleged injuries, whether claimant gave timely notice of the alleged injuries, including claimant's assertion that the discovery rule should extend claimant's notice period, whether these claims are barred by the statute of limitations, including claimant's assertion that the discovery rule should extend claimant's limitations period, whether the alleged injuries caused temporary or permanent disability and, if so, the extent thereof, the proper commencement date for permanent disability benefits, whether claimant is entitled to claim certain alleged dependents and the resulting weekly workers' compensation benefit rate, whether claimant is entitled to an award of past medical expenses, and whether claimant's costs should be assessed against defendant.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant failed to carry her burden of proof that she sustained cumulative trauma injuries to her bilateral wrists which arose out of and in the course of her employment with defendant as alleged. Claimant asserts the deputy commissioner erred in finding claimant was not prejudiced by allowing Dr. Kelty to testify live at the arbitration hearing. Claimant asserts the deputy commissioner erred in finding the other issues raised in the arbitration proceeding to be moot. Claimant also asserts the deputy commissioner erred in failing to order defendant to pay claimant's costs of the arbitration proceeding and in ordering the parties to bear their own costs.

Defendant 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.

Having performed a de novo review of the evidentiary record and the detailed arguments of the parties, 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 July 20, 2015, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided sufficient analysis 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 her burden of proof that she sustained cumulative trauma injuries to her bilateral wrists which arose out of and in the course of her employment with defendant as alleged. I affirm the deputy commissioner's finding that claimant is entitled to take nothing in this matter. I affirm the deputy commissioner's finding that claimant was not prejudice by allowing Dr. Kelty to testify live at the arbitration hearing. Because I affirm the deputy commissioner's finding that claimant failed to carry her burden of proof on the issues of causation and compensability, I affirm the deputy commissioner's finding that the other issues raised in the arbitration proceeding are moot. I affirm the deputy commissioner's order that the parties bear their own costs of the arbitration proceeding. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues

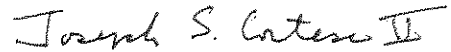
#### ORDER

IT IS THEREFORE ORDERED that the arbitration decision of September 4, 2015, is affirmed in its entirety.

Claimant takes nothing in any of the litigated files.

Pursuant to rule 876 IAC 4.33, each party shall bear 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 this 5<sup>th</sup> day of April, 2017.



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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

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