

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

IDALIA HERNANDEZ,	:		FILED
	:		MAY 30 2018
Claimant,	:	File No. 5051333	WORKERS' COMPENSATION
vs.	:	A P P E A L	
TYSON FOODS, INC.,	:	D E C I S I O N	
	:		
Employer,	:		
Self-Insured,	:		
Defendant.	:	Head Note No. 1803.1	

Claimant Idalia Hernandez appeals from an arbitration decision filed on January 17, 2017. Defendant Tyson Foods, Inc., self-insured employer, responds to the appeal. The case was heard on February 5, 2016, and it was considered fully submitted in front of the deputy workers' compensation commissioner on February 15, 2016.

The deputy commissioner found claimant failed to carry her burden of proof that her permanent disability resulting from the stipulated injury which arose out of and in the course of claimant's employment with defendant on December 10, 2013, extended beyond claimant's right hand into her body as a whole. The deputy commissioner found claimant is entitled to receive only scheduled member functional disability benefits, all of which the parties stipulated were paid prior to the arbitration hearing. The deputy commissioner found claimant is not entitled to receive industrial disability benefits for the work injury. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant failed to carry her burden of proof that her permanent disability resulting from the work injury extends into her body as a whole. Claimant asserts the deputy commissioner erred in failing to award industrial disability benefits.

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.

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 January 17, 2017, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided sufficient 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 her burden of proof that she sustained an injury to her body as a whole as a result of the work-related injury of December 10, 2013, as alleged. I affirm the deputy commissioner's finding that claimant failed to prove entitlement to industrial disability benefits. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

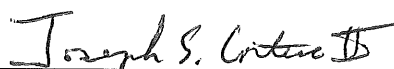
ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on January 17, 2017, is affirmed in its entirety.

Claimant shall take nothing from these proceedings.

Pursuant to rule 876 IAC 4.33, defendant shall pay claimant's 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 30th day of May, 2018.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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