

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

DONNA COOK,

Claimant,

vs.

NEWTON CORRECTIONAL FACILITY,

Employer,

STATE OF IOWA,

Defendant.

File No. 5064180

A P P E A L

D E C I S I O N

Head Notes: 1108.20; 1402.40; 1803; 1803.1;
1804; 1808; 2701, 2907; 5-9998

Claimant Donna Cook appeals from an arbitration decision filed on December 31, 2019. Defendant Newton Correctional Facility/State of Iowa, self-insured employer, responds to the appeal. The case was heard on August 13, 2019, and it was considered fully submitted in front of the deputy workers' compensation commissioner on October 14, 2019.

In the arbitration decision, the deputy commissioner found claimant failed to meet her burden of proof to establish her hip and low back pain resulted in either permanent impairment or permanent disability. As such, the deputy commissioner found claimant was not entitled to receive industrial disability benefits based upon the alleged hip or low back injury claims. The deputy commissioner further found claimant failed to prove she sustained a material aggravation of her pre-existing mental health conditions as a result of the June 30, 2017, work injury. In that regard, the deputy commissioner also found claimant failed to establish entitlement to an award of alternate medical care for future mental health treatment. The deputy commissioner found claimant failed to prove she is permanently and totally disabled under the traditional industrial disability analysis. The deputy commissioner also found claimant failed to prove she is permanently and totally disabled under the odd-lot analysis; however, the deputy commissioner acknowledged that such an analysis was unnecessary as the odd-lot doctrine applies only in unscheduled, industrial disability claims. The deputy commissioner found claimant's entitlement to permanent partial disability benefits is limited to a bilateral scheduled member injury to claimant's legs. The deputy commissioner found claimant met her burden of proof to establish entitlement to 20 weeks of permanent partial disability benefits for combined scheduled member disability pursuant to Iowa Code section 85.34(2)(s). Lastly, 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 prove entitlement to industrial disability benefits. In that regard,

claimant asserts the deputy commissioner erred in determining claimant failed to prove she sustained permanent injuries to her bilateral hips and low back. Claimant further asserts the deputy commissioner erred in finding she failed to prove the June 30, 2017, work injury materially aggravated her pre-existing mental health conditions. Lastly, claimant asserts the deputy commissioner erred in failing to assess claimant's costs against defendant.

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 December 31, 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 entitlement to industrial disability benefits. In that regard, I affirm the deputy commissioner's finding that claimant failed to prove she sustained permanent injuries to her bilateral hips and low back. I affirm the deputy commissioner's finding that claimant failed to prove the June 30, 2017, work injury caused or materially aggravated her pre-existing mental health conditions. As such, I affirm the deputy commissioner's finding that claimant is only entitled to permanent partial disability benefits pursuant to Iowa Code section 85.34(2)(s). I affirm the deputy commissioner's finding, as a result of the work injury, claimant sustained four percent impairment of the whole person for injuries to her bilateral lower extremities entitling claimant to receive 20 weeks of permanent partial disability benefits. 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 December 31, 2019, is affirmed in its entirety.

Defendant shall pay claimant twenty (20) weeks of permanent partial disability benefits commencing on August 17, 2018, at the stipulated weekly rate of one thousand forty-eight and 78/100 dollars (\$1,048.78).

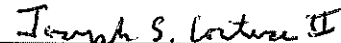
Defendant shall receive the stipulated credit against this award set out in the hearing report.

Defendant shall pay accrued weekly benefits, if any, in a lump sum together with interest at the rate of ten percent for all weekly benefits payable and not paid when due which accrued before July 1, 2017, and all interest on past due weekly compensation benefits accruing on or after July 1, 2017, shall be payable at an annual rate equal to the one-year treasury constant maturity published by the federal reserve in the most recent H15 report settled as of the date of injury, plus two percent. See Gamble v. AG Leader Technology, File No. 5054686 (App. Apr. 24, 2018).

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), defendant shall file subsequent reports of injury as required by this agency.

Signed and filed on this 11th day of September, 2020.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Tammy Gentry (via WCES)

Sarah Timko (via WCES)