

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

DAVID WILSON,

Claimant,

vs.

TRANS-LUX FAIR-PLAY, a/k/a
INSPERITY,

Employer,

and

INDEMNITY INSURANCE COMPANY
OF NORTH AMERICA,

Defendants.

File No. 5049489

A P P E A L

D E C I S I O N

Head Note Nos: 1402.30; 2502; 2907;
5-9998

FILED
MAY 10 2019
WORKERS' COMPENSATION

Claimant David Wilson appeals from an arbitration decision filed on December 14, 2017. Defendants, Trans-Lux Fair-Play, a/k/a Insperity, employer, and its insurer, Indemnity Insurance Company of North America, respond to the appeal. The case was heard on June 2, 2017, and it was considered fully submitted in front of the deputy workers' compensation commissioner on August 10, 2017.

The deputy commissioner found claimant failed to carry his burden of proof that he sustained injuries which arose out of and in the course of his employment with defendant-employer on September 23, 2014, as alleged. The deputy commissioner found all other issues raised in this matter are moot, including whether claimant is entitled to receive temporary disability benefits, permanent disability benefits and medical benefits. The deputy commissioner found claimant is not entitled to receive permanent total disability benefits under either the traditional industrial disability analysis or under the odd-lot analysis. The deputy commissioner found claimant is not entitled to receive reimbursement pursuant to Iowa Code section 85.39 from defendants for the independent medical evaluations (IMEs) of claimant by Jacqueline Stoken, D.O., performed on August 5, 2015, and on September 6, 2016. 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 he sustained work injuries on September 23, 2014, as alleged. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to receive temporary disability benefits, permanent disability benefits and medical benefits.

Claimant asserts the deputy commissioner erred in finding claimant is not entitled to receive permanent total disability benefits under either the traditional industrial disability analysis or under the odd-lot analysis. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to receive reimbursement pursuant to Iowa Code section 85.39 from defendants for Dr. Stoken's IMEs. Claimant asserts the deputy commissioner erred in failing to order defendant 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 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 14, 2017, 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 finding that claimant failed to prove he sustained work injuries on September 23, 2014, as alleged. I affirm the deputy commissioner's finding that all other issues raised in this matter are moot, including whether claimant is entitled to receive temporary disability benefits, permanent disability benefits and medical benefits. I affirm the deputy commissioner's finding that claimant is not entitled to receive permanent total disability benefits under either the traditional industrial disability analysis or under the odd-lot analysis. I affirm the deputy commissioner's finding that claimant is not entitled to receive reimbursement pursuant to Iowa Code section 85.39 from defendants for Dr. Stoken's IMEs. 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 all of the above issues.

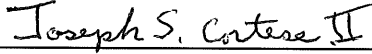
ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on December 14, 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 10th day of May, 2019.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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