

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

KRISTINA DAWSON,

Claimant,

vs.

SECOND INJURY FUND OF IOWA,

Defendant.

File No. 5061023

A P P E A L

D E C I S I O N

Head Note No: 3202

Claimant Kristina Dawson appeals from an arbitration decision filed on March 1, 2018. Defendant Second Injury Fund of Iowa (the Fund) responds to the appeal. The case was heard on June 19, 2017, and it was considered fully submitted in front of the deputy workers' compensation commissioner on July 14, 2017.

The deputy commissioner found claimant failed to carry her burden of proof that the claimed injuries to three fingers on her left hand allegedly sustained in August 2001 constitute a qualifying first injury for Fund liability in combination with claimant's stipulated March 25, 2016, work-related left knee injury. Because the deputy commissioner found claimant did not prove she sustained a qualifying first injury, the deputy commissioner found all other issues raised in this matter are moot including whether claimant's March 25, 2016, work injury is a qualifying second injury for Fund liability, the extent of claimant's industrial disability resulting from the combination of the two injuries, and the Fund's entitlement to credit against any award of industrial disability. The deputy commissioner ordered claimant to pay the costs of the arbitration proceeding.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant's August 2001 injury to the three fingers on her left hand do not constitute a qualifying first injury for Fund liability. Claimant asserts the deputy commissioner erred in finding all of the other issues raised in this matter are moot and in failing to address whether claimant's March 26, 2016, work injury is a qualifying second injury for Fund liability, the extent of claimant's industrial disability resulting from the combination of the two injuries, and the Fund's entitlement to credit against any award of industrial disability.

The Fund 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 March 1, 2018, 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's August 2001 injury to the three fingers on her left hand do not constitute a qualifying first injury for Fund liability. I affirm the deputy commissioner's finding that all of the other issues raised in this matter are moot, including whether claimant's March 26, 2016, work injury is a qualifying second injury for Fund liability, the extent of claimant's industrial disability resulting from the combination of the two injuries, and the Fund's entitlement to credit against any award of industrial disability. I affirm the deputy commissioner's order that claimant pay the 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 March 1, 2018, is affirmed in its entirety.

Claimant shall take nothing from these proceedings.

Pursuant to rule 876 IAC 4.33, claimant shall pay the 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), the Fund shall file subsequent reports of injury as required by this agency.

Signed and filed on this 23rd day of July, 2019.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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