

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

RAEANN ASHLEY,	:	File No. 5067349
	:	
Claimant,	:	A P P E A L
	:	
vs.	:	D E C I S I O N
	:	
SECOND INJURY FUND OF IOWA,	:	
	:	
Defendant.	:	Head Notes: 1402.40; 3202; 3203; 5-9998

Claimant Raeann Ashley appeals from an arbitration decision filed on June 26, 2020. Defendant Second Injury Fund of Iowa (the Fund) responds to the appeal. The case was heard on March 27, 2020, and it was considered fully submitted in front of the deputy workers' compensation commissioner on April 24, 2020.

The deputy commissioner found claimant failed to carry her burden of proof to establish she is entitled to receive benefits from the Fund because the deputy commissioner found claimant failed to prove she sustained a first qualifying injury to her left upper extremity on November 23, 1987. That finding rendered moot all other issues raised in this matter, including the extent of claimant's functional disability of her left upper extremity, the extent of claimant's entitlement to benefits from the Fund, and the correct commencement date for benefits from the Fund. The deputy commissioner ordered claimant and the Fund to pay their own costs of the arbitration proceeding.

On appeal, claimant asserts the deputy commissioner erred in finding claimant failed to prove she sustained a first qualifying injury. Claimant asserts the deputy commissioner erred in finding the other issues raised in this matter are moot. Claimant asserts the deputy commissioner erred in failing to find claimant is permanently and totally disabled as a result of the combination of the alleged first qualifying injury and claimant's work injury which occurred on August 31, 2018.

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 performed a de novo review of the evidentiary record and the detailed arguments of the parties. Pursuant to Iowa Code sections 17A.15 and 86.24, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed on June 26, 2020, 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 findings of fact and conclusions of law pertaining to those issues.

I affirm the deputy commissioner's finding that claimant failed to prove she is entitled to receive benefits from the Fund because I affirm the deputy commissioner's finding that claimant failed to prove she sustained a first qualifying injury to her left upper extremity on November 23, 1987. I affirm the deputy commissioner's finding that because claimant failed to prove entitlement to receive benefits from the Fund, all other issues raised in this matter are rendered moot. I affirm the deputy commissioner's order that claimant and the Fund 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 June 26, 2020, is affirmed in its entirety.

Claimant shall take nothing from these proceedings.

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

Signed and filed on this 20th day of November, 2020.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Randall Schueller (via WCES)

Amanda Rutherford (via WCES)