

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

TROY McDONALD,

Claimant,

vs.

FISHER CONTROLS/
EMERSON PROCESS MANAGEMENT,

Employer,

and

OLD REPUBLIC INSURANCE
COMPANY,

Insurance Carrier,
Defendants.

FILED

FEB 21 2018

WORKERS' COMPENSATION

File Nos. 5052226, 5052227

A P P E A L

D E C I S I O N

Head Note Nos: 1100; 5-9998

Claimant Troy McDonald appeals from an arbitration decision filed on July 29, 2016. Defendants Fisher Controls/Emerson Process Management, employer, and its insurer, Old Republic Insurance Co., respond to the appeal. The case was heard on February 23, 2016, and it was considered fully submitted in front of the deputy workers' compensation commissioner on April 20, 2016.

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 either February 15, 2013, or on March 26, 2013, as alleged. Because the deputy commissioner found claimant failed to carry his burden of proof on the issues of causation and compensability regarding claimant's alleged injuries, the deputy commissioner found all other issues raised regarding those alleged injuries are moot. The deputy commissioner found claimant is entitled to reimbursement from defendants for the cost the independent medical evaluation (IME) performed by Robert Jones, M.D., on December 18, 2015. 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 carry his burden of proof that he sustained work-related injuries on either February 15, 2013, or on March 26, 2013, as alleged. Claimant asserts the

deputy commissioner erred in finding claimant failed to prove entitlement to healing period benefits, permanent partial disability benefits and medical benefits.

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 July 29, 2016, 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 his burden of proof that he sustained work-related injuries on either February 15, 2013, or on March 26, 2013, as alleged. I affirm the deputy commissioner's finding that all other issues raised regarding the alleged injuries are moot. I affirm the deputy commissioner's finding that claimant is entitled to reimbursement from defendants for the cost of Dr. Jones' IME. 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 July 29, 2016, is affirmed in its entirety.

Claimant shall take nothing, other than Dr. Jones IME fee of six hundred and no/100 dollars (\$600.00).

Defendants shall receive credit for all benefits previously paid.

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 21st day of February, 2018.

Joseph S. Cortese II

JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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