

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

MICHAEL ARMSTRONG,

Claimant,

vs.

COLLIS, LLC/SSW HOLDING CO. INC.,

Employer,

and

SAFETY NATIONAL CASUALTY
CORPORATION,Insurance Carrier,
Defendants.

File No. 19006218.01

A P P E A L

D E C I S I O N

Head Notes: 1402.40; 1803; 1803.1;
2501; 2601.10; 2907;
5-9998

Claimant Michael Armstrong appeals from an arbitration decision filed on August 18, 2021. Defendants Collis, LLC/SSW Holding Company, Inc., employer, and its insurer, Safety National Casualty Corporation, respond to the appeal. The case was heard on October 20, 2020, and it was considered fully submitted in front of the deputy workers' compensation commissioner on December 4, 2020.

In the arbitration decision, the deputy commissioner found claimant carried his burden of proof to establish he sustained a scheduled member right shoulder injury on June 4, 2019, which arose out of and in the course of his employment with defendant-employer. The deputy commissioner found claimant failed to prove he sustained injuries to his back, neck and right arm as a result of the work injury. The deputy commissioner found claimant sustained scheduled member functional disability of 15 percent of the right shoulder as a result of the work injury, which entitles claimant to receive 60 weeks of permanent partial disability benefits starting on the stipulated commencement date of January 28, 2020. The deputy commissioner found defendants are responsible for payment of all authorized, causally-related medical care for the work injury.

Claimant asserts on appeal that the deputy commissioner erred in adopting the permanent impairment rating of Abdulla Foad, M.D., and in rejecting the permanent impairment rating of Richard L. Kreiter, M.D. Claimant asserts the award for claimant's

permanent disability resulting from the work injury should be increased to 27 percent of the right shoulder pursuant to Dr. Kreiter's impairment rating.

Defendants assert on appeal that the arbitration decision should be affirmed in its entirety.

Those portions of the proposed arbitration 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 August 18, 2021, 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 proved he sustained a scheduled member right shoulder injury as a result of the work injury. I affirm the deputy commissioner's finding that claimant failed to prove he sustained injuries to his back, neck and right arm as a result of the work injury. I affirm the deputy commissioner's finding that claimant sustained scheduled member functional disability of 15 percent of the right shoulder as a result of the work injury. I affirm the deputy commissioner's finding that defendants are responsible for payment of all authorized, causally-related medical care for the work injury.

I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on August 18, 2021, is affirmed in its entirety.

Defendants shall pay claimant sixty (60) weeks of permanent partial disability benefits at the stipulated weekly rate of three hundred seventy-nine and 98/100 dollars (\$379.98), starting on the stipulated commencement date of January 28, 2020.

Defendants shall receive credit for all benefits previously paid.

Defendants shall pay accrued weekly benefits in a lump sum together with interest 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.

Defendants shall pay for all authorized, causally-related medical care for the work injury.

Pursuant to rule 876 IAC 4.33, claimant shall pay the costs of the appeal, including the cost of the hearing transcript.

Pursuant to rule 876 IAC 3.1(2), defendants shall file subsequent reports of injury as required by this agency.

Signed and filed on this 7th day of December, 2021.

Joseph S. Cortese II

JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

M. Leanne Tyler (via WCES)

Timothy Clausen (via WCES)