

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

NIKKI BEHNKE,	:	
	:	
Claimant,	:	
	:	
vs.	:	
	:	File No. 5063221
SP CANTERBURY, INC.,	:	
	:	A P P E A L
Employer,	:	
	:	D E C I S I O N
and	:	
	:	
SECURITY NATIONAL INSURANCE	:	
COMPANY,	:	
	:	
Insurance Carrier,	:	Head Notes: 1100; 1402.20; 1402.40;
Defendants.	:	5-9998

Claimant Nikki Behnke appeals from an arbitration decision filed on May 14, 2019. Defendants SP Canterbury, Inc., employer, and its insurer, Security National Insurance Company, respond to the appeal. The case was heard on March 29, 2019, and it was considered fully submitted in front of the deputy workers' compensation commissioner on April 30, 2019.

The deputy commissioner found claimant was not credible and, as such, the deputy commissioner found claimant failed to carry her burden of proof to establish she sustained an injury as alleged on December 28, 2016, which arose out of and in the course of claimant's employment with defendant-employer. The deputy commissioner found that because claimant failed to carry her burden of proof to establish causation and compensability, all other issues raised in this matter are moot, including claimant's alleged entitlement to disability benefits, alleged entitlement to payment for past medical treatment, alleged entitlement to ongoing medical treatment, and alleged entitlement to penalty benefits. The deputy commissioner found claimant is entitled to receive nothing in this matter.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant was not credible and in finding claimant failed to carry her burden of proof to establish she sustained a work-related injury on December 28, 2016, as alleged. Claimant asserts the deputy commissioner erred in finding all other issues raised in this

matter are moot. Claimant asserts the deputy commissioner erred in finding claimant is entitled to receive nothing in this matter.

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 May 14, 2019, 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 failed to carry her burden of proof to establish she sustained a work-related injury as alleged on December 28, 2016. I affirm the deputy commissioner's finding that because claimant failed to carry her burden of proof to establish causation and compensability, all other issues raised in this matter are moot, including claimant's alleged entitlement to disability benefits, alleged entitlement to payment for past medical treatment, alleged entitlement to ongoing medical treatment and alleged entitlement to penalty benefits. I affirm the deputy commissioner's finding that claimant is entitled to receive nothing in this matter.

Some of the findings by the deputy commissioner in the arbitration decision were based on the deputy commissioner's findings regarding claimant's credibility. The deputy commissioner found claimant was not credible. Claimant asserts the deputy commissioner erred in finding claimant was not credible. While I performed a de novo review, I give considerable deference to findings of fact which are impacted by the credibility findings, expressly or impliedly made, regarding claimant by the deputy commissioner who presided at the arbitration hearing. I find the deputy commissioner correctly assessed claimant's credibility in this matter. I find nothing in the record in this matter which would cause me to reverse the deputy commissioner's finding that claimant was not credible.

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

ORDER


IT IS THEREFORE ORDERED that the arbitration decision filed on May 14, 2019, 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 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 26th day of March, 2020.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

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