

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

TROY HODGSON,

Claimant,

vs.

BRETT VOSS CONSTRUCTION,

Employer,

and

AUTO-OWNERS INSURANCE
COMPANY,

Insurance Carrier,
Defendants.

File No. 5048684

APPEAL

DECISION

Head Note Nos: 1100; 1108; 1802, 1803
2502; 5-9998

FILED
DEC - 5 2018
WORKERS' COMPENSATION

Claimant Troy Hodgson appeals from an arbitration decision filed on March 30, 2017. Defendants Brett Voss Construction, employer, and its insurer, Auto-Owners Insurance Company, respond to the appeal. The case was heard on August 15, 2016, and it was considered fully submitted in front of the deputy workers' compensation commissioner on October 1, 2016.

The deputy commissioner found claimant failed to carry his burden of proof that he sustained an injury as a result of the stipulated incident which arose out of and in the course of claimant's employment with defendant-employer on November 26, 2013. Because the deputy commissioner found claimant failed to carry his burden of proof that he sustained a work injury on November 26, 2013, the deputy commissioner found claimant failed to prove entitlement to receive temporary disability benefits and permanent disability benefits. The deputy commissioner found claimant failed to prove he is entitled to receive permanent total disability benefits under either the traditional industrial disability analysis or under the odd-lot analysis. The deputy commissioner found claimant is entitled to receive reimbursement from defendants in the amount of \$1,975.00 from defendants for the cost of the independent medical evaluation (IME) of claimant performed by Sunil Bansal, M.D., on July 1, 2016. Because the deputy commissioner found claimant failed to prove causation and compensability, the deputy commissioner found all other issues raised in this matter are moot, including claimant's gross average weekly wage and claimant's weekly benefit rate for the alleged injury, whether claimant is entitled to receive alternate medical care for the alleged injury and whether costs of the arbitration proceeding should be assessed.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant failed to carry his burden of proof that he sustained a work-related injury on

November 26, 2013. Claimant asserts the deputy commissioner erred in finding claimant failed to prove entitlement to receive temporary disability benefits and permanent disability benefits. Claimant asserts the deputy commissioner erred in failing to find claimant is entitled to receive permanent total disability benefits under either the traditional industrial disability analysis or under the odd-lot analysis. Claimant asserts the deputy commissioner erred in finding all other issues raised in this matter are moot, including claimant's gross average weekly wage and claimant's weekly benefit rate for the alleged injury and whether claimant is entitled to receive alternate medical care for the alleged injury and whether costs of the arbitration proceeding should be assessed.

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 March 30, 2017, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided sufficient 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 his burden of proof that he sustained a work-related injury on November 26, 2013. I affirm the deputy commissioner's finding that claimant failed to prove entitlement to receive temporary disability benefits and permanent disability benefits. I affirm the deputy commissioner's finding that claimant failed to prove he is entitled to receive permanent total disability benefits under either the traditional industrial disability analysis or under the odd-lot analysis. I affirm the deputy commissioner's finding that claimant is entitled to receive reimbursement from defendants for the cost of Dr. Bansal's IME. I affirm the deputy commissioner's finding that all other issues raised in this matter are moot, including claimant's gross average weekly wage and claimant's weekly benefit rate for the alleged injury, whether claimant is entitled to receive alternate medical care for the alleged injury and whether costs of the arbitration proceeding should be assessed. I affirm the deputy commissioner's findings, conclusions and analysis regarding all of those issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on March 30, 2017, is affirmed in its entirety.


Defendants shall pay reimburse claimant in the amount of one thousand nine hundred seventy-five dollars (\$1,975.00) for the cost of Dr. Bansal's IME.

Claimant shall take nothing further from these proceedings.

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.

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 5th day of December, 2018.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

Copies to:

Ryan T. Beattie
Attorney at Law
4300 Grand Ave.
Des Moines, IA 50312-2426
ryan.beattie@beattielawfirm.com

Matthew R. Phillips
Attorney at Law
801 Grand Ave., Ste. 3700
Des Moines, IA 50309-8004
Phillips.matthew@bradshawlaw.com