

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

PATRICK VANGVORATHEO,

Claimant,

vs.

IAC IOWA CITY LLC,

Employer,

and

AMERICAN ZURICH INS. CO.,

Insurance Carrier,
Defendants.

File No. 5058182

A P P E A L

D E C I S I O N

Head Note Nos: 1402.40; 1801; 1803;
2501; 2907; 5-9998

Claimant Patrick Vangvoratheo appeals from an arbitration decision filed on August 30, 2018. Defendants IAC Iowa City LLC, employer, and its insurer, American Zurich Ins. Co., respond to the appeal. The case was heard on March 7, 2018, and it was considered fully submitted in front of the deputy workers' compensation commissioner on April 30, 2018.

The deputy commissioner determined claimant failed to carry his burden of proof to establish he sustained permanent disability as a result of the stipulated February 5, 2015, work injury to his back. The deputy commissioner found claimant did satisfy his burden of proof to establish a temporary aggravation of his pre-existing back condition. The deputy commissioner found claimant is entitled to receive temporary total disability benefits from the date of his separation from employment on March 27, 2015, through June 19, 2015. The deputy commissioner also found claimant is entitled to payment by defendants of past requested medical expenses through June 19, 2015. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$438.12.

On appeal, claimant argues the deputy commissioner erred in finding claimant did not sustain permanent disability as a result of the work injury. Claimant asserts it should be found on appeal that he is either permanently and totally disabled or significantly industrially disabled as a result of the February 5, 2015, work injury.

Claimant alternatively argues he is entitled to receive additional healing period benefits if he is not found to be permanently and totally disabled.

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 August 30, 2018, 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 prove he sustained permanent disability as a result of the February 5, 2015 work injury. I affirm the deputy commissioner's finding that claimant only satisfied his burden of proof to establish a temporary aggravation of his pre-existing back condition. In doing so, I affirm the deputy commissioner's finding that the causation opinions of Sarvenaz Jabbari, M.D., and Benjamin MacLennan, M.D., are more persuasive than the causation opinion of Farid Manshadi, M.D.

With respect to the duration of claimant's temporary aggravation, I affirm the deputy commissioner's acceptance of Dr. MacLennan's opinion that claimant returned to baseline as of June 19, 2015. I therefore affirm the deputy commissioner's finding that claimant is entitled to receive temporary total disability benefits from the date of his separation from employment on March 27, 2015, through June 19, 2015. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$438.12.

Some of the findings by the deputy commissioner in the arbitration decision were based on the deputy commissioner's findings regarding claimant's credibility. While the deputy commissioner did not make a specific finding that claimant was not credible, he indicated he had questions regarding claimant's credibility. While I performed a de novo review, I give considerable deference to findings of fact that are impacted by the credibility findings, expressly or impliedly made, by the deputy commissioner who presided at the review-reopening 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 indication that he had questions regarding claimant's credibility.

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 August 30, 2018, is affirmed in its entirety.

Defendants shall pay claimant temporary total disability benefits from March 27, 2015, through June 19, 2015, at the stipulated weekly rate of four hundred seventy-five and 89/100 dollars (\$475.89).

Defendants shall pay accrued weekly benefits in a lump sum together with interest at the rate of ten percent for all weekly benefits payable and not paid when due which accrued before July 1, 2017, and all interest on past due weekly compensation benefits accruing on or after July 1, 2017, shall be payable 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. See Gamble v. AG Leader Technology, File No. 5054686 (App. Apr. 24, 2018).

Defendants shall reimburse claimant for his out-of-pocket medical expenses itemized in Exhibit 7, including mileage, and defendants shall otherwise pay, reimburse, and/or satisfy all remaining past requested medical expenses itemized in Exhibit 7, through June 19, 2015.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of four hundred thirty-eight and 12/100 dollars (\$438.12), 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 20th day of December, 2019.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

James Neal Via WCES

James M. Ballard Via WCES