

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

DANIEL L. MILLS,

Claimant,

vs.

HOUGHTON MIFFLIN HARCOURT,

Employer,

and

NEW HAMPSHIRE INSURANCE
COMPANY,

Insurance Carrier,
Defendants.

FILED

AUG 29 2016

WORKERS' COMPENSATION

File No. 5038673

A P P E A L

D E C I S I O N

Head Note Nos.: 1100; 1402.40

Claimant Daniel L. Mills appeals from an arbitration decision filed on March 9, 2015. Defendants Houghton Mifflin Harcourt, employer, and its insurer, New Hampshire Insurance Company, respond to the appeal. The case was heard on March 4, 2014, and it was considered fully submitted in front of the deputy workers' compensation commissioner on April 4, 2014.

The deputy commissioner found claimant failed to carry his burden of proof that he sustained temporary disability and permanent disability resulting from an injury which arose out of and in the course of his employment on February 17, 2010. The Deputy Commissioner also found claimant failed to prove entitlement to penalty benefits. The deputy commissioner awarded claimant nothing. The deputy commissioner ordered claimant to pay the 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 temporary disability and permanent disability resulting from the February 17, 2010, work injury. Claimant asserts the deputy commissioner erred in failing to award permanent total disability benefits. Claimant asserts the deputy commissioner erred in failing to award penalty 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.

Having performed a de novo review of the evidentiary record and the detailed arguments of the parties, 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 9, 2015, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided sufficient analysis 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 temporary disability and permanent disability resulting from the February 17, 2010, work injury. I affirm the deputy commissioner's finding that claimant failed to prove entitlement to penalty benefits. I affirm the deputy commissioner's order that claimant pay the costs of the arbitration proceeding. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

Some of the findings by the deputy commissioner in the arbitration decision were based on the deputy's finding that claimant is not a credible witness. 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, regarding claimant made by the deputy commissioner who presided at the hearing.

ORDER

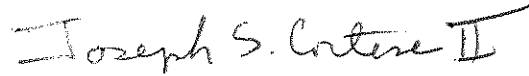
IT IS THEREFORE ORDERED that the arbitration decision of March 9, 2015, is affirmed in its entirety.

Claimant shall take nothing from these proceedings.

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

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

Signed and filed this 29th day of August, 2016.

Handwritten signature of Joseph S. Cortese II in black ink.

JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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