

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

PAUL ROTH,

Claimant,

vs.

SECOND INJURY FUND OF IOWA,

Defendant.

File No. 5064881

A P P E A L

D E C I S I O N

Head Notes: 1402.20; 1402.40; 1803;
1803; 3202; 5-9998

Claimant Paul Roth appeals from an arbitration decision filed on December 27, 2021. Defendant Second Injury Fund of Iowa (the Fund) responds to the appeal. The case was heard on October 24, 2019, and it was considered fully submitted in front of the deputy workers' compensation commissioner on November 14, 2019.

In the arbitration decision the deputy commissioner found claimant met his burden of proof to establish he sustained a first qualifying loss to his right arm under Iowa Code section 85.64. The deputy commissioner found claimant failed to prove he sustained a second qualifying loss under Iowa Code section 85.64, and found claimant is not entitled to receive benefits from the Fund.

Claimant asserts on appeal that the deputy commissioner properly found claimant sustained a first qualifying loss under Iowa Code section 85.64. Claimant asserts the deputy commissioner erred in finding claimant failed to establish he sustained a second qualifying loss under Iowa Code section 85.64. Claimant asserts it should be found he is entitled to recover industrial disability benefits from the Fund.

The Fund asserts on appeal that the arbitration decision should be affirmed in its entirety.

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 December 27, 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 first qualifying loss to his right arm under Iowa Code section 85.64. I affirm the deputy commissioner's finding that claimant did not prove he sustained a second qualifying loss under Iowa Code section 85.64. I affirm the deputy commissioner's finding that the remaining issues are moot and that the claim for benefits should be dismissed with prejudice without an award of benefits against the Fund

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

ORDER

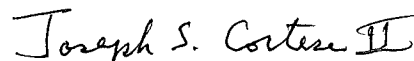
IT IS THEREFORE ORDERED that the arbitration decision filed December 27, 2021, is affirmed in its entirety.

Claimant shall take nothing from these proceedings.

Pursuant to rule 876 IAC 4.33, the parties shall pay their own costs of the arbitration proceeding, and the costs of the appeal, including the cost of the hearing transcript, shall be paid by claimant.

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

Signed and filed on this 11th day of May, 2022.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Christopher Spaulding (via WCES)

Alexander LeSher (via WCES)