

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

CHRISTY B. LOGAN,

Claimant,

vs.

THE BON TON STORES, INC.,

Employer,

and

LIBERTY MUTUAL INS. CORP.

Insurance Carrier,
Defendants.

File Nos. 5055594, 5056452,
5056453, 5056454

A P P E A L

D E C I S I O N

Head Note Nos: 1100, 1402, 2700

FILED

DEC - 5 2018

WORKERS' COMPENSATION

Claimant Christy B. Logan appeals from an arbitration decision filed on August 24, 2018.

On November 29, 2018, the Iowa Workers' Compensation Commissioner delegated authority to the undersigned to enter a final agency decision in this matter. Therefore, this appeal decision is entered as final agency action pursuant to Iowa Code section 17A.15(3) and Iowa Code section 86.24.

This case originally proceeded to hearing on June 21, 2018. In the resulting August 24, 2018 arbitration decision, the deputy commissioner determined claimant failed to carry her burden to prove she sustained injuries arising out of and in the course of her employment on March 1, 2014 (file number 5055594), April 4, 2014¹ (file number 5056452), and April 23, 2014 (file number 5056453). While the deputy commissioner determined claimant sustained a work-related injury to her left knee on October 18, 2014 (file number 5056454), he also determined claimant failed to carry her burden to

¹ In his arbitration decision the deputy commissioner occasionally refers to an April 14, 2014 date of injury instead of April 4, 2014 date of injury. These references are clearly scrivener's errors and had no substantive impact on the deputy commissioner's findings, conclusions, or analysis.

prove the October 18, 2014 injury caused any temporary or permanent disability. The deputy commissioner determined defendants were responsible for a single medical appointment resulting from the October 18, 2014 injury, which was an evaluation performed by John Albright, M.D., on October 30, 2014.

On appeal, it appears claimant asserts the deputy commissioner erred in determining her alleged injuries on March 1, 2014, April 4, 2014, and April 23, 2014 did not arise out of and in the course of her employment. Claimant also appears to argue the deputy commissioner erred in determining claimant was not entitled to any temporary or permanent disability benefits or additional medical benefits relating to the October 18, 2014 date of injury.

Pursuant to Iowa Code section 17A.15 and Iowa Code section 86.24, I performed a de novo review of the evidentiary record before the presiding deputy commissioner. I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed on August 24, 2018 that relate to issues properly raised on intra-agency appeal.

I find no error in the deputy commissioner's decision that claimant failed to carry her burden to prove she sustained injuries arising out of and in the course of her employment on March 1, 2014, April 4, 2014, and April 23, 2014. As correctly noted by the deputy commissioner, claimant's treatment records from March through May of 2014 make no mention of any work-related incident. In fact, at her appointment on March 18, 2014, which was roughly two weeks after her first alleged work injury, claimant referenced only "pain began *in July 2013 with no inciting trauma or specific event.*" (Joint Exhibit 3, page 9) (emphasis added) Her physical therapy record from April 10, 2014, which was roughly a week after her second alleged work injury, describe an "insidious" onset of pain. (JE 5, p. 13) It was not until claimant's appointment on June 5, 2014, that she mentioned to any medical provider that she had tripped at work. (JE 8, p. 21)

Further, even after she reported the tripping incident to Dr. Albright on June 5, 2014, Dr. Albright never offered an opinion that claimant's ongoing knee condition was caused or materially aggravated by any of claimant's alleged tripping incidents in March or April of 2014. In fact, no physician or expert offered any such opinion. This is problematic given claimant's history of left knee pain in 2013 and subsequent diagnosis of fibromyalgia in 2015, which claimant acknowledged also causes knee pain. (JE 1-2; Hearing Transcript, pp. 37-38)

Considering both claimant's delay in mentioning the alleged tripping incidents to her medical providers and the absence of any expert opinions in the record, I concur with and affirm the deputy commissioner's finding and conclusion that claimant failed to carry her burden to prove she sustained injuries arising out of and in the course of her employment on March 1, 2014, April 4, 2014, and April 23, 2014.

I find no error in the deputy commissioner's decision that claimant sustained an injury to her left knee on October 18, 2014 but failed to carry her burden to prove it caused any temporary or permanent disability. While claimant contemporaneously reported the October 18, 2014 incident to Dr. Albright, she also reported that her pain from the incident had "resolved." (Claimant's Exhibit 6, p. 18) No physician or expert opined that claimant's ongoing left knee symptoms were caused by or materially aggravated by the October 18, 2014 incident, nor did any physician or expert opine that claimant sustained any permanent impairment from the October 18, 2014 incident. For these reasons, I concur with and affirm the deputy commissioner's finding and conclusion that while claimant satisfied her burden to prove she sustained an injury that arose out of and in the course of her employment on October 18, 2014, she failed to carry her burden to prove she sustained any resulting temporary or permanent disability. I likewise concur with and affirm the deputy commissioner's finding and conclusion that the only medical treatment defendants are responsible for is the October 30, 2014 appointment with Dr. Albright.

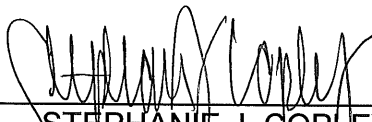
In sum, I find the deputy commissioner provided sufficient analysis of the issues raised in the arbitration proceeding. I affirm the deputy commissioner's findings of fact and conclusions of law pertaining to those issues in their entirety.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision of August 24, 2018, is affirmed in its entirety.

Claimant shall bear the costs of this appeal, including the cost of the hearing transcript, pursuant to rule 876 IAC 4.33.

Signed and filed this 5th day of December, 2018.



STEPHANIE J. COPLEY
DEPUTY WORKERS' COMPENSATION
COMMISSIONER

Copies To:

Christy B. Logan
308 E. Burlington St., #221
Iowa City, IA 52240
loganchristyb@gmail.com

Andrew D. Hall
Benjamin Erickson
Attorneys at Law
500 E. Court Ave., Ste. 200
Des Moines, IA 50309
ahall@grefesidney.com
berickson@grefesidney.com