

JUL 16 2019

WORKERS' COMPENSATION

JAMES GRIFFIN,

Claimant,

vs.

DEWITT ELECTRIC,

Employer,

and

UNITED FIRE GROUP,

Insurance Carrier,

and

SECOND INJURY FUND OF IOWA,

Defendants.

File Nos. 5051995, 5051996, 5062257

**A P P E A L
D E C I S I O N**

Head Notes: 1402.40; 1802; 1803; 2501;
2907; 3202; 5-9998

Claimant James Griffin appeals from an arbitration decision filed on December 22, 2017. Defendants, DeWitt Electric, employer, and its insurer, United Fire Group, and defendant Second Injury Fund of Iowa (the Fund), respond to the appeal. The case was heard on May 16, 2017, and it was considered fully submitted in front of the deputy workers' compensation commissioner on July 24, 2017.

In File No. 5051995, the deputy commissioner found claimant proved he sustained scheduled member functional disability of seven percent of the left lower extremity, which entitles claimant to receive 15.4 weeks of permanent partial disability benefits, all of which was paid prior to the arbitration hearing, as a result of a stipulated injury which arose out of and in the course of claimant's employment with defendant-employer on June 22, 2011. The deputy commissioner found claimant failed to prove his January 26, 2012, left total knee replacement surgery was causally related to the June 22, 2011, work injury. The deputy commissioner found claimant is not entitled to receive healing period benefits for the June 22, 2011, work injury from January 6, 2012, through April 12, 2012, as alleged. The deputy commissioner found claimant is not entitled to payment by defendants employer and insurer for the requested past medical expenses itemized in Exhibit 12. The deputy commissioner ordered the parties to pay their own costs of the arbitration proceeding in File No. 5051995.

In File No. 5051996, the deputy commissioner found claimant failed to prove he sustained permanent disability of his left elbow and left upper extremity as a result of a stipulated injury which arose out of and in the course of claimant's employment with defendant-employer on February 24, 2015. Because the deputy commissioner found claimant sustained no permanent disability as a result of the February 24, 2015, work injury, the deputy commissioner also found claimant is not entitled to receive benefits from the Fund. The deputy commissioner ordered the parties to pay their own costs of the arbitration proceeding in File No. 5051996.

In File No. 5062257, the deputy commissioner found claimant failed to prove he sustained permanent disability of his left lower extremity as a result of a stipulated injury which arose out of and in the course of claimant's employment with defendant-employer on February 22, 2016. The deputy commissioner found claimant is entitled to payment by defendants employer and insurer for the requested past medical expenses itemized in Exhibit 13. The deputy commissioner ordered the parties to pay their own costs of the arbitration proceeding in File No. 5062257.

In File No. 5051995, claimant asserts on appeal that the deputy commissioner erred in finding claimant failed to prove his January 26, 2012, left total knee replacement surgery, and any resulting disability, are causally related to the June 22, 2011, work injury. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to receive healing period benefits for the June 22, 2011, work injury from January 6, 2012, through April 12, 2012. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to payment by defendants employer and insurer for the requested past medical expenses itemized in Exhibit 12.

In File No. 5051996, claimant asserts on appeal that the deputy commissioner erred in finding claimant failed to prove he sustained permanent disability of his left elbow and left upper extremity as a result of the February 24, 2015, work injury. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to receive benefits from the Fund.

In File No. 5062257, claimant asserts on appeal that the deputy commissioner erred in finding claimant failed to prove he sustained permanent disability of his left lower extremity as a result of the February 22, 2016, work injury.

Defendants employer and insurer and defendant Fund 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 December 22, 2017, 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.

In File No. 5051995, I affirm the deputy commissioner's finding that claimant proved he sustained scheduled member functional disability of seven percent of the left lower extremity. I affirm the deputy commissioner's finding that claimant failed to prove his January 26, 2012, left total knee replacement surgery, and any resulting disability, are causally related to the June 22, 2011, work injury. I affirm the deputy commissioner's finding that claimant is not entitled to receive healing period benefits for the June 22, 2011, work injury from January 6, 2012, through April 12, 2012. I affirm the deputy commissioner's finding that claimant is not entitled to payment by defendants employer and insurer for the requested past medical expenses itemized in Exhibit 12. I affirm the deputy commissioner's order that the parties pay their own costs of the arbitration proceeding in File No. 5051995.

In File No. 5051996, I affirm the deputy commissioner's finding that claimant failed to prove he sustained permanent disability of his left elbow and left upper extremity as a result of the February 24, 2015, work injury. Because I affirm the deputy commissioner's finding that claimant sustained no permanent disability as a result of the February 25, 2015 work injury, I also affirm the deputy commissioner's finding that claimant is not entitled to receive benefits from the Fund. I affirm the deputy commissioner's order that the parties pay their own costs of the arbitration proceeding in File No. 5051996.

In File No. 5062257, I affirm the deputy commissioner's finding that claimant failed to prove he sustained permanent disability of his left lower extremity as a result of the February 22, 2016, work injury. I affirm the deputy commissioner's finding that claimant is entitled to payment by defendants employer and insurer for the requested past medical expenses itemized in Exhibit 13. I affirm the deputy commissioner's order that the parties pay their own costs of the arbitration proceeding in File No. 5062257.

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

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on December 22, 2017, is affirmed in its entirety.

File No. 5051995 - Date of Injury: June 22, 2011:

Claimant is entitled to receive 15.4 weeks of permanent partial disability benefits at the stipulated weekly rate of six hundred forty-nine and 14/100 dollars (\$649.14). However, defendant's employer and insurer previously paid 15.4 weeks of permanent partial disability benefits for the June 22, 2011, date of injury and as such are entitled to receive a credit for benefits paid. I find claimant has failed to show entitlement to receive any additional permanent partial disability benefits as a result of the June 22, 2011, work injury.

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), defendant's employer and insurer shall file subsequent reports of injury as required by this agency.

File No. 5051996 - Date of Injury: February 24, 2015:

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 claimant shall pay the costs of the appeal, including the cost of the hearing transcript.

Pursuant to rule 876 IAC 3.1(2), defendant's employer and insurer shall file subsequent reports of injury as required by this agency.

File No. 5062257 - Date of Injury: February 22, 2016:

Claimant shall take no weekly benefits from this proceeding.

Defendants shall be responsible for the requested past medical expenses itemized in Exhibit 13.

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), defendant's employer and insurer shall file subsequent reports of injury as required by this agency.

Signed and filed on this 16th day of July, 2019.

Joseph S. Cortese II

JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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