

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

MIRZA CUFUROVIC,	:	
	:	
Claimant,	:	File No. 5063063
	:	
vs.	:	A P P E A L
	:	
TYSON FOODS, INC.,	:	D E C I S I O N
	:	
Self-Insured,	:	
Employer,	:	Head Note Nos: 1402.30, 2907; 5-9998
Defendant.	:	

Claimant Mirza Cufurovic appeals from an arbitration decision filed on April 16, 2018. Defendant Tyson Foods, Inc., self-insured employer, responds to the appeal. The case was heard on January 9, 2018, and it was considered fully submitted in front of the deputy workers' compensation commissioner on February 12, 2018.

The deputy commissioner found claimant failed to carry her burden of proof to establish that her low back condition was either caused by, or was materially aggravated by, claimant's employment with defendant on or about August 25, 2016, as alleged. Because the deputy commissioner found claimant failed to prove causation and compensability with regard to her low back condition, the deputy commissioner found all other issues raised in this matter are moot, including (1) whether claimant provided timely notice of the alleged injury to defendant under Iowa Code section 85.23, (2) whether claimant is entitled to receive a running award of healing period benefits (3) whether claimant is entitled to receive reimbursement from defendant for requested past medical expenses and requested medical mileage, and (4) whether claimant is entitled to receive alternate medical care for ongoing and future medical treatment. The deputy commissioner also found claimant is not entitled to an assessment of costs against defendant and the deputy commissioner ordered the parties to pay their own costs of the arbitration proceeding.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant failed to carry her burden of proof to establish that her low back condition was either caused by, or was materially aggravated by, the alleged work injury. Claimant asserts the deputy commissioner erred in finding all other issues raised in this matter are moot.

Defendant asserts 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 April 16, 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 carry her burden of proof to establish that her low back condition was either caused by, or was materially aggravated by, the alleged work injury. I affirm the deputy commissioner's finding that all other issues raised in this matter are moot. I affirm the deputy commissioner's finding that claimant is not entitled to an assessment of costs against defendant and I affirm the deputy commissioner's order that the parties pay their own costs of the arbitration proceeding.

Some of the findings by the deputy commissioner in the arbitration decision were based on the deputy commissioner's findings regarding claimant's credibility. The deputy commissioner found claimant was not credible. While I performed a de novo review, I give considerable deference to findings of fact which are impacted by the credibility findings, expressly or impliedly made, regarding claimant by the deputy commissioner who presided at the arbitration 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 finding that claimant was not credible.

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 April 16, 2018, is affirmed in its entirety

Claimant shall take nothing from these proceedings.

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

Signed and filed on this 8th day of November, 2019.

Joseph S. Cortese II

JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Joshua M. Moon (Via WCES)

Jason P. Wiltfang (Via WCES)