

**SOUTH DAKOTA DEPARTMENT OF LABOR & REGULATION
DIVISION OF LABOR AND MANAGEMENT**

STEVEN DOTY,

HF No. 79 2017/18

Claimant,

v.

DECISION

PRO CONTRACTING,

Employer,

and

FEDERATED INSURANCE

Insurer.

This is a workers' compensation case brought before the South Dakota Department of Labor & Regulation, Division of Labor and Management pursuant to SDCL 62-7-12 and ARSD 47:03:01. The case was heard remotely by Michelle M. Faw, Administrative Law Judge, on February 4, 2021. Claimant, Steven Doty, was present and proceeded pro se. The Employer, Pro Contracting and Federated Insurance were represented by Timothy A. Clausen of Klass Law Firm. The issues raised at hearing were causation, major contributing cause, and first report of injury.

Background:

Steven Doty (Doty) submitted a Petition for Hearing to the Department of Labor and Regulation on January 15, 2018. He alleged that he suffered a work-related injury on or around September 20, 2017 while employed by Pro Contracting which was at all times pertinent insured for workers' compensation purposes by Federated Insurance. The injury occurred in Aberdeen where Doty was stripping wall forms when he injured his

knee and back. He testified that the return trip from Aberdeen was very uncomfortable due to the issues he was experiencing in his lower back. He experienced further discomfort when he got out of bed the next morning.

To prevail in this matter, Doty must prove that the work injury on September 21, 2017 is a major contributing cause of his current condition. He has the burden of proving all facts essential to sustain an award of compensation. *Darling v. West River Masonry Inc.*, 2010 S.D. 4, ¶ 11, 777 N.W.2d 363, 367. “The fact that an employee may have suffered a work-related injury does not automatically establish entitlement to benefits for his current claimed condition.” *McQuay v. Fischer Furniture*, 2011 S.D. 91, ¶ 11 808 N.W.2d 107, 111 (citations omitted).

Doty has not offered a medical expert’s opinion to support his claim. “The testimony of professionals is crucial in establishing this causal relationship because the field is one in which laymen ordinarily are unqualified to express an opinion.” *Day v. John Morrell & Co.*, 490 N.W.2d 720, 724 (S.D. 1992). At hearing, he provided his friend Mike Puetz (Puetz) as a witness. Puetz provided testimony regarding his recollections of Doty’s condition following the work injury. Puetz recalled Doty “couldn’t turn [his] head and [he] was limping pretty bad.” Hearing Tr. 4. Doty also testified live at hearing about his injury, the medical treatments he has received, and the related bills. However, without a medical expert or expert report to provide testimony regarding his treatment and injury, Doty cannot prove that his work injury was a major contributing cause of his current condition. Therefore, Doty has not proven he is entitled to benefits.

Doty asserted that he had failed to receive the first report of injury. He then testified at hearing that he did receive the first report of injury on December 4, 2018. Therefore, as Doty has received a copy of the report, the issue is now moot.

Conclusion:

Doty has not proven by a preponderance of the evidence that his work-related injury is and remains a major contributing cause of his current condition. Therefore, his request for benefits related to his September 20, 2017 injury is DENIED.

Counsel for Pro Contracting and Federated Insurance shall submit Findings of Fact and Conclusions of Law and an Order consistent with this Decision within twenty (20) days from the date of receipt of this Decision. Doty shall have an additional twenty (20) days from the date of receipt of Pro Contracting and Federated Insurance's Proposed Findings and Conclusions to submit objections thereto and/or to submit his own proposed Findings of Fact and Conclusions of Law. The parties may stipulate to a waiver of Findings of Fact and Conclusions of Law and if they do so, Pro Contracting and Federated Insurance shall submit such Stipulation along with an Order consistent with this Decision.

Dated this 8 day of June 2021.

SOUTH DAKOTA DEPARTMENT OF LABOR & REGULATION



Michelle M. Faw
Administrative Law Judge