

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

SCOT SPENCER,

Claimant,

vs.

ST. PIUS CHURCH,

Employer,

and

DUBUQUE ARCHDIOCESAN
PROTECTION PROGRAM,

Insurance Carrier,
Defendants.

File Nos. 5053747 and 5058037

ORDER NUNC PRO TUNC

FOR ORDER NUNC PRO TUNC, the undersigned states:

In defendants' motion for order nunc pro tunc, filed in this matter on August 16, 2019, defendants point out that the appeal decision filed in this matter on August 14, 2019, contains a scrivener's error, which appears in two places.

The first place the scrivener's error appears is the second sentence of the fourth full paragraph on page 2 of the appeal decision, which states as follows:

The deputy commissioner found claimant sustained 60 percent industrial disability as a result of the February 6, 2014, work injury which entitles claimant to receive 300 weeks of permanent partial disability benefits commencing on February 7, 2014.

I intended for that sentence to state:

The deputy commissioner found claimant sustained 60 percent industrial disability as a result of the February 6, 2014, work injury which entitles claimant to receive 300 weeks of permanent partial disability benefits commencing on the stipulated commencement date of September 25, 2015.

The second place the scrivener's error appears is on page 5 of the appeal decision, in the second full sentence of the order section of the decision, which states as follows:

Defendants shall pay claimant one hundred fifty (150) weeks of permanent partial disability benefits at the weekly rate of three hundred eleven and no/100 dollars (\$311.00), commencing on February 7, 2014.

I intended for that sentence to state:

Defendants shall pay claimant one hundred fifty (150) weeks of permanent partial disability benefits at the weekly rate of three hundred eleven and no/100 dollars (\$311.00), commencing on the stipulated commencement date of September 25, 2015.

The phrase, "nunc pro tunc" means "now for then." See: Black's Law Dictionary, page 1218 (Revised 4th Edition 1968). The definition in Black's Law Dictionary further provides: "A phrase applied to acts allowed to be done after the time when they should be done, with a retroactive effect, i.e. with the same effect as if regularly done." Black's at 1218. A nunc pro tunc order "is not for the purpose of correcting judicial thinking, a judicial conclusion, or a mistake of law." Headley v. Headley, 172 N.W.2d 104, 108 (Iowa 1969). The nunc pro tunc order can be employed to correct obvious errors or to make an order conform to the judge's original intent. Graber v. District Court for Washington Cty., 410 N.W.2d 224, 229 (Iowa 1987). Brinson v. Spee Dee Delivery Service, No. 8-754/06- 2074 (Iowa App. November 13, 2008).

It is therefore appropriate to correct my scrivener's error which appears in the second sentence of the fourth full paragraph on page 2 of the appeal decision, and which also appears on page 5 of the appeal decision, in the second full sentence of the order section.

ORDER

IT IS THEREFORE ORDERED:

The second sentence of the fourth full paragraph on page 2 of the appeal decision filed in this matter on August 14, 2019, is amended to state as follows:

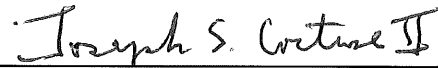
The deputy commissioner found claimant sustained 60 percent industrial disability as a result of the February 6, 2014, work injury which entitles claimant to receive 300 weeks of permanent partial disability benefits commencing on the stipulated commencement date of September 25, 2015.

On page 5 of the appeal decision, the second full sentence of the order section of the decision is amended to state as follows:

Defendants shall pay claimant one hundred fifty (150) weeks of permanent partial disability benefits at the weekly rate of three hundred eleven and no/100 dollars (\$311.00), commencing on the stipulated commencement date of September 25, 2015.

There are no other changes to the appeal decision filed in this matter on August 14, 2019.

Signed and filed on this 20th day of August, 2019.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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