

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

RICK PRUISMANN,

Claimant,

vs.

IOWA TANK LINES, INC.,

Employer,

and

ZURICH AMERICAN INS. CO.,

Insurance Carrier,  
Defendants.

**FILED**

**JUN 8 2018**

WORKERS' COMPENSATION

File No. 5053398

**A P P E A L**

**D E C I S I O N**

Head Note Nos: 1803; 3001; 5-9998

Claimant Rick Pruismann appeals from an arbitration decision filed on February 7, 2017. Defendants Iowa Tank Lines, Inc., employer, and its insurer, Zurich American Insurance Company, respond to the appeal. The case was heard on June 28, 2016, and it was considered fully submitted in front of the deputy workers' compensation commissioner on September 1, 2016.

The deputy commissioner found claimant sustained 45 percent industrial disability as a result of the stipulated injury which arose out of and in the course of claimant's employment with defendant-employer on November 19, 2014, which entitles claimant to receive 225 weeks of permanent partial disability (PPD) benefits, commencing on May 12, 2015. The deputy commissioner found claimant failed to carry his burden of proof that he is permanently and totally disabled as a result of the work injury under either an industrial disability analysis or under an odd-lot analysis. The deputy commissioner found claimant's gross average weekly wage for the work injury is \$520.42, and the deputy commissioner found claimant's weekly benefit rate for the work injury, classification single with one exemption, is \$327.43. The deputy commissioner found claimant is not entitled to receive penalty benefits in this matter for an unreasonable underpayment of weekly benefits. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$699.94.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant sustained 45 percent industrial disability as a result of the work injury. Claimant asserts the award for industrial disability should be increased substantially or,

in the alternative, claimant asserts he should be awarded permanent total disability benefits under either an industrial disability analysis or under an odd-lot analysis.

Claimant 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.

Having performed a de novo review of the evidentiary record and the detailed arguments of the parties, 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 February 7, 2017, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned 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. I affirm the deputy commissioner's finding that claimant sustained 45 percent industrial disability as a result of the work injury. I affirm the deputy commissioner's finding that claimant failed to carry his burden of proof that he is permanently and totally disabled as a result of the work injury under either an industrial disability analysis or under an odd-lot analysis. I affirm the deputy commissioner's findings that claimant's gross average weekly wage for the work injury is \$520.42, and claimant's weekly benefit rate for the work injury is \$327.43. I affirm the deputy commissioner's finding that claimant is not entitled to receive penalty benefits for an unreasonable underpayment of weekly benefits. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$699.94. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

#### ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on February 7, 2017, is affirmed in its entirety.

Defendants shall pay claimant two hundred twenty-five (225) weeks of permanent partial disability benefits commencing May 12, 2015, at the weekly rate of three hundred twenty-seven and 43/100 dollars (\$327.43).

Defendants shall be entitled to a credit for all benefits paid to date.

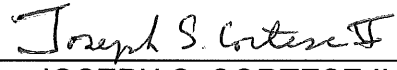
Defendants shall pay accrued weekly benefits in a lump sum together with interest at the rate of ten percent for all weekly benefits payable and not paid when due which accrued before July 1, 2017, and all interest on past due weekly compensation benefits accruing on or after July 1, 2017, shall be payable at an annual rate equal to

the one-year treasury constant maturity published by the federal reserve in the most recent H15 report settled as of the date of injury, plus two percent. See Gamble v. AG Leader Technology, File No. 5054686 (App. Apr. 24, 2018).

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount \$699.94, and claimant shall pay the costs of the appeal, including the cost of the hearing transcript.

Pursuant to rule 876 IAC 3.1(2), defendants shall file subsequent reports of injury as required by this agency.

Signed and filed on this 8<sup>th</sup> day of June, 2018.

  
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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

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