

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JEFF PAUL NOLTING,
Claimant,

vs.

EXIDE TECHNOLOGIES,
Employer,

and

AMERICAN ZURICH INSURANCE
CO.,
Insurance Carrier,
Defendants.

FILED

AUG - 1 2017

File No. 5052052 WORKERS' COMPENSATION

A P P E A L

D E C I S I O N

Head Note Nos: 1803; 4000.2; 5-9998

Claimant Jeff Paul Nolting appeals from an arbitration decision filed on January 21, 2016, and from a rehearing decision filed on February 16, 2016. Defendants Exide Technologies, employer, and its insurer, American Zurich Insurance Company, respond to the appeal. The case was heard on December 9, 2015, and it was considered fully submitted in front of the deputy workers' compensation commissioner at the conclusion of the arbitration hearing.

The deputy commissioner found claimant sustained five 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 October 13, 2012. The five percent industrial disability award entitles claimant to 25 weeks of permanent partial disability (PPD) benefits commencing on January 1, 2013. The deputy commissioner found claimant is entitled to \$2,085.55 in penalty benefits pursuant to Iowa Code section 86.13 for both underpayment and late payment of PPD benefits. The deputy commissioner ordered defendants to pay the costs of the arbitration proceeding.

Claimant asserts on appeal that the deputy commissioner erred in awarding only five percent industrial disability. Claimant asserts the deputy commissioner should have awarded not less than 25 percent industrial disability for the October 13, 2012 work injury.

Defendants 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.

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 January 21, 2016, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided sufficient 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 award of five percent industrial disability, which entitles claimant to 25 weeks of permanent partial disability (PPD) benefits commencing on January 1, 2013. I affirm the deputy commissioner's finding that claimant is entitled to \$2,085.55 in penalty benefits pursuant to Iowa Code section 86.13 for both underpayment and late payment of PPD benefits, by defendants. I affirm the deputy commissioner's order that defendants pay the costs of the arbitration proceeding. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on January 21, 2016, is affirmed in its entirety.

Defendants shall pay claimant twenty-five (25) weeks of permanent partial disability benefits at the rate of eight hundred thirty-four and 22/100 dollars (\$834.22) per week commencing on January 1, 2013.

Defendants shall pay all previous temporary and permanent partial disability benefits at the stipulated rate of eight hundred thirty-four and 22/100 dollars (\$834.22) per week.

Defendants shall pay accrued weekly benefits in a lump sum together with interest pursuant to Iowa Code section 85.30.

Defendants shall receive a credit for all benefits previously paid.

Defendants shall pay claimant two thousand eighty-five and 55/100 dollars (\$2,085.55) in penalty benefits as detailed above.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's 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), defendants shall file subsequent reports of injury as required by this agency.

Signed and filed this 1st day of August, 2017.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

Copies To:

William G. Nicholson
Attorney at Law
PO Box 637
Cedar Rapids, IA 52406-0637
[wnich@rushnicholson.com](mailto:w nich@rushnicholson.com)

Thomas D. Wolle
Attorney at Law
PO Box 1943
Cedar Rapids IA 52406-1943
twolle@simmonsperrine.com