

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

AMBER HALL,  
Claimant,

vs.

APPLE CREEK KENNEL,  
Employer,

and

TRAVELERS PROPERTY CASUALTY  
COMPANY OF AMERICA,  
Insurance Carrier,  
Defendants.

**FILED**

JUN 29 2018

WORKERS' COMPENSATION

File No. 5044786

A P P E A L  
D E C I S I O N

Head Note Nos: 2905; 1804; 5-9998

Defendants Apple Creek Kennel, employer, and its insurer, Travelers Property Casualty Company of America, appeal from a review-reopening decision filed on December 2, 2016. Claimant Amber Hall responds to the appeal. The case was heard on September 7, 2016, and it was considered fully submitted in front of the deputy workers' compensation commissioner on September 28, 2017.

The deputy commissioner found defendants are not entitled to review-reopening against claimant in this matter because the deputy commissioner found defendants failed to carry their burden of proof that claimant has experienced either an economic change of condition or a physical change of condition following an arbitration decision which was filed in this matter on December 18, 2014, for injuries which occurred on April 21, 2013, which arose out of and in the course of claimant's employment with defendant-employer. In the arbitration decision, which was affirmed by the workers' compensation commissioner on May 12, 2016, claimant was awarded permanent total disability (PTD) benefits commencing February 14, 2014. Based on the finding of no change of economic or physical condition in the review-reopening decision, the deputy commissioner found claimant is entitled to continue to receive PTD benefits. The deputy commissioner also ordered defendants to pay claimant's costs of the review-reopening proceeding.

Defendants assert on appeal that the deputy commissioner erred in finding they are not entitled to review-reopening in this matter because defendants assert the deputy commissioner erred in finding defendants failed to carry their burden of proof that claimant has experienced either an economic change of condition or a physical change of condition following the December 18, 2014, arbitration decision. Defendants assert

the deputy commissioner erred in failing to find claimant's entitlement to permanent disability benefits should be substantially reduced.

Claimant asserts on appeal that the review-reopening 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 review-reopening decision filed on December 2, 2016, 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 review-reopening 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 defendants are not entitled to review-reopening against claimant in this matter because I affirm the deputy commissioner's finding that defendants failed to carry their burden of proof that claimant sustained either an economic change of condition or a physical change of condition following the December 18, 2014, arbitration decision. I affirm the deputy commissioner's finding that claimant is entitled to continue to receive PTD benefits. I affirm the deputy commissioner's order that defendants pay claimant's costs of the review-reopening proceeding. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

#### ORDER

IT IS THEREFORE ORDERED that the review-reopening decision filed on December 2, 2016, is affirmed in its entirety.

Defendants/petitioners' petition for review-reopening is dismissed.

Defendants shall continue to pay claimant permanent total disability benefits at the weekly rate of two hundred eighty-six and 32/100 dollars (\$286.32).

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the review-reopening proceeding, and defendants 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 29<sup>th</sup> day of June, 2018.



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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

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