

## BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

---

REMEDIOS MARQUEZ de  
RODRIGUEZ,

Claimant,

vs.

MENARDS, INC.,

Employer,

and

XL INSURANCE AMERICA, INC.,

Insurance Carrier,  
Defendants.

File No. 5067292

A P P E A L

D E C I S I O N

: Head Notes: 1402.40; 1802; 1803; 1804;  
: 2907; 5-9998

---

Defendants Menards, Inc., employer, and its insurer, XL Insurance America, Inc., appeal from an arbitration decision filed on March 16, 2022. Claimant Remedios Marquez de Rodriguez responds to the appeal. The case was heard on May 12, 2021, and it was considered fully submitted in front of the deputy workers' compensation commissioner on June 25, 2021.

In the arbitration decision, the deputy commissioner found claimant carried her burden of proof to establish she is permanently and totally disabled as a result of the stipulated work injury which occurred on December 4, 2017. The deputy commissioner awarded claimant permanent total disability benefits commencing on May 2, 2019. The deputy commissioner found claimant is not entitled to receive additional healing period benefits for the work injury.

Defendants assert on appeal that the deputy commissioner erred in finding claimant is permanently and totally disabled as a result of the work injury. Defendants assert the award for permanent disability should be reduced substantially.

Claimant asserts on appeal that the arbitration decision should be affirmed in its entirety.

Those portions of the proposed arbitration decision pertaining to issues not raised on appeal are adopted as a part of this appeal decision.

I have performed a de novo review of the evidentiary record and the detailed arguments of the parties, and 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 March 16, 2022, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis of all 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 proved she is permanently and totally disabled as a result of the work injury. I affirm the deputy commissioner's award of permanent total disability benefits for the injury. I affirm the deputy commissioner's finding that claimant is not entitled to receive additional healing period benefits for the work injury.

I affirm the deputy commissioner's findings, conclusions, and analysis regarding those issues.

#### ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on March 16, 2022, is affirmed in its entirety.

Defendants shall pay claimant permanent total disability benefits at the stipulated weekly rate of four hundred twenty-five and 34/100 dollars (\$425.34) commencing on May 2, 2019, and continuing during the period of permanent total disability.

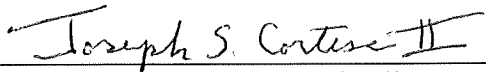
Pursuant to the stipulation of the parties, defendants shall receive credit for 48 weeks of benefits previously paid to claimant at the stipulated weekly rate of four hundred thirty-three and 81/100 dollars (\$433.81).

Defendants shall pay accrued weekly benefits in a lump sum together with interest 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, as required by Iowa Code section 85.30.

Pursuant to rule 876 IAC 4.33, 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 July, 2022.

  
\_\_\_\_\_  
JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

The parties have been served as follows:

Michael Dowd (via WCES)

John Corrigan (via WCES)

Timothy Clarke (via WCES)

Thomas Shires (via WCES)