

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

SHERILYN FASIG SNITKER,

Claimant,

vs.

BIRDNOW ENTERPRISES, INC., d/b/a
BIRDNOW MOTORS,

Employer,

and

SEABRIGHT INSURANCE CO.,

Insurance Carrier,
Defendants.

File No. 5065702

A P P E A L

D E C I S I O N

Head Note Nos: 1803; 2907; 5-9998

Claimant Sherilyn Fasig Snitker appeals from an arbitration decision filed on July 18, 2018. Defendants Birdnow Enterprises, Inc., d/b/a Birdnow Motors, employer, and its insurer, Seabright Insurance Co., respond to the appeal. The case was heard on April 26, 2018, and it was considered fully submitted in front of the deputy workers' compensation commissioner on May 17, 2018.

The deputy commissioner found claimant sustained 40 percent industrial disability, which entitles claimant to receive 200 weeks of permanent partial disability (PPD) benefits commencing on August 10, 2017, as a result of the stipulated work injury which arose out of and in the course of claimant's employment with defendant-employer on February 8, 2013. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$1,097.46.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant sustained 40 percent industrial disability as a result of the work injury. Claimant asserts the deputy commissioner erred in failing to find claimant is permanently and totally disabled as a result of the 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.

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 July 18, 2018, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis of all 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 40 percent industrial disability as a result of the February 8, 2013, work injury. I affirm the deputy commissioner's finding that claimant is not permanently and totally disabled as a result of the work injury. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$1,097.46.

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

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on July 18, 2018, is affirmed in its entirety

Defendants shall pay claimant two hundred (200) weeks of permanent partial disability benefits at the weekly rate of six hundred forty-nine and 29/100 dollars (\$649.29) commencing on August 10, 2017.

Defendants shall receive credit for all benefits previously paid.

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. April 24, 2018).

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of one thousand ninety-seven and 46/100 dollars (\$1,097.46), and claimant shall pay the costs of the appeal, including the cost of the hearing transcript.

