

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

MATHEW LISK,

Claimant,

vs.

CEMEN TECH, INC.,

Employer,

and

TRAVELERS INDEMNITY CO. OF CT.,

Insurance Carrier,
Defendants.

FILED

MAY 17 2016

WORKERS' COMPENSATION

File No. 5044888

A P P E A L

D E C I S I O N

Head Note Nos.: 1108.50, 1803, 2209

Defendants Cemen Tech, Inc., and its insurer, Travelers Indemnity Co. of Ct., appeal from an arbitration decision filed on February 3, 2015. The case was heard on January 6, 2015, and it was considered fully submitted in front of the deputy workers' compensation commissioner on January 21, 2015.

The deputy commissioner found claimant carried his burden of proof that he sustained an acute injury which arose out of and in the course of his employment on December 1, 2011, which caused a permanent aggravation of a pre-existing condition. The deputy commissioner awarded claimant 15 percent industrial disability, which entitles claimant to 75 weeks of PPD benefits, for the work injury. The deputy commissioner also awarded claimant's costs in the amount of \$530.52.

Defendants assert on appeal that the deputy commissioner erred in finding claimant carried his burden of proof that he sustained permanent physical disability which arose out of and in the course of his employment on December 1, 2011. Defendants also assert the deputy commissioner erred in awarding claimant 15 percent industrial disability. Defendants also assert the deputy commissioner erred in awarding claimant's costs in the amount of \$530.52.

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 3, 2015, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided sufficient 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 carried his burden of proof that he sustained permanent physical disability as a result of the December 1, 2011, work injury. I affirm the deputy commissioner's finding that claimant sustained 15 percent industrial disability as a result of the work injury. I affirm the deputy commissioner's award of claimant's costs in the amount of \$530.52 pursuant to rule 876 IAC 4.33. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision of February 3, 2015, is affirmed in its entirety.

Defendants shall pay claimant seventy-five (75) weeks of permanent partial disability benefits at the stipulated weekly rate of four hundred seventy-one and 27/100 dollars (\$471.27).

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

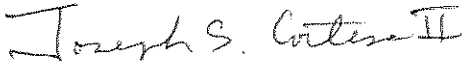
All accrued benefits shall be paid in a lump sum.

Defendants shall pay interest pursuant to Iowa Code section 85.30 on any benefits paid after they became due.

Pursuant to rule 876 IAC 4.33, defendants shall pay the costs of the arbitration proceeding in the amount of \$530.32, and defendants shall also pay the costs of the appeal, including the cost of the hearing transcript.

Defendants shall file subsequent reports of injury (SROI) as required by this agency pursuant to rules 876 IAC 3.1 (2) and 876 IAC 11.7.

Signed and filed this 17th day of May, 2016.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

Copies To:

James Neal
Attorney at Law
6611 University Ave., Ste. 200
Des Moines, IA 50324-1655
jneal@smalaw.net

James W. Bryan
Attorney at Law
1089 Jordan Creek Pkwy, Suite 360
West Des Moines, IA 50266
jbryan@travelers.com