

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

EDWARD KARNES, JR.,

Claimant,

vs.

GENERAL CONSTRUCTION, INC.,

Employer,

and

SELECTIVE INSURANCE CO.,

Insurance Carrier,  
Defendants.

**FILED**

AUG 24 2017

WORKERS' COMPENSATION

File No. 5013150

A P P E A L

D E C I S I O N

Head Note No: 3303.20

Defendants General Construction, Inc., employer, and its insurer, Selective Insurance Company, appeal from a partial commutation decision filed on February 16, 2016. The case was heard on January 20, 2016, and it was considered fully submitted in front of the deputy workers' compensation commissioner on February 10, 2016.

The deputy commissioner found claimant carried his burden of proof that it is in claimant's best interest that his request for partial commutation of his prior permanent total disability award should be granted. The deputy commissioner also ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$291.20.

Defendants assert the deputy commissioner erred in finding claimant carried his burden of proof that it is in claimant's best interest that his request for partial commutation should be granted. Defendants assert claimant's request for partial commutation should be denied. Defendants also assert the deputy commissioner erred in ordering defendants to pay claimant's costs of the arbitration proceeding.

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 86.24 and 17A.15, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed in this matter on February 10, 2016, which relate to 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 finding that claimant carried his burden of proof that it is in claimant's best interest that his request for partial commutation should be granted. I also affirm the deputy commissioner's order taxing defendants with claimant's 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 February 16, 2016, is affirmed in its entirety.

Defendants shall pay claimant a lump sum payment of future weekly benefits, except for the two (2) final weeks, as set forth in claimant's petition for partial commutation, discounted to the present value based on the number of weeks to be commuted and the interest rate for determining the discount as of the date of this decision. Weekly benefits will resume if claimant is still living at the end of his life expectancy per the tables.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of \$291.20, 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 24<sup>th</sup> day of August, 2017.

*Joseph S. Cortese II*

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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

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