

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

GARY NETOLICKY,

Claimant,

vs.

BABCOCK & WILCOX
CONSTRUCTION CO.,

Employer,

and

INDEMNITY INSURANCE COMPANY
OF NORTH AMERICA,

Insurance Carrier,
Defendants.

FILED
JAN 29 2019
WORKERS' COMPENSATION

File No. 5058144

REHEARING DECISION

On December 17, 2018, the undersigned filed an arbitration decision in this case. On January 7, 2018 defendants filed a motion for rehearing/reconsideration pursuant to 876 IAC 4.24. The motion was granted by the undersigned on January 23, 2018. Claimant was given additional time to file a resistance if so desired. No resistance is on file. The application for rehearing is timely and is considered.

In the December 17, 2018 arbitration decision there was an award of penalty benefits in the amount of five thousand and no/100 dollars (\$5,000.00). Defendants' application for rehearing seeks to have the award of penalty benefits reconsidered. Defendants argue that there should be no penalty due. Claimant does not resist defendants' motion to remove the award of penalty benefits. Therefore, the penalty benefits which were awarded in the December 17, 2018 arbitration decision are hereby removed from the arbitration decision. Defendants do not owe any penalty benefits. The December 17, 2018 award of penalty benefits is rescinded.

The defendants' application for rehearing/reconsideration is granted. The arbitration decision is supplemented and amended by this decision. There is no award of penalty benefits in this agency file number 5058144.

THEREFORE, IT IS ORDERED:

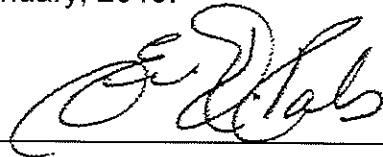
All weekly benefits shall be paid at the rate of one thousand fifty-five and 69/100 dollars (\$1,055.69).

Defendants shall pay fifty (50) weeks of permanent partial disability benefits commencing on February 5, 2015.

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 Deciga Sanchez v. Tyson Fresh Meats, Inc., File No. 5052008 (App. Apr. 23, 2018) (Ruling on Defendants' Motion to Enlarge, Reconsider or Amend Appeal Decision re: Interest Rate Issue).

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 29th day of January, 2019.



ERIN Q. PALS
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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EQP/sam

Right to Appeal: This decision shall become final unless you or another interested party appeals within 20 days from the date above, pursuant to rule 876-4.27 (17A, 86) of the Iowa Administrative Code. The notice of appeal must be in writing and received by the commissioner's office within 20 days from the date of the decision. The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday. The notice of appeal must be filed at the following address: Workers' Compensation Commissioner, Iowa Division of Workers' Compensation, 1000 E. Grand Avenue, Des Moines, Iowa 50319-0209.