

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

DWIGHT FRAZIER,

Claimant,

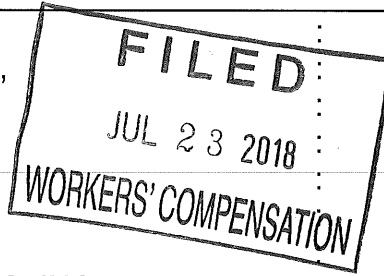
vs.

FAREWAY STORES, INC.,

Employer,

NATIONWIDE MUTUAL
INSURANCE COMPANY,

Insurance Carrier,
Defendant.



File Nos. 5060201, 5060202, 5060203,
5060204, 5060205, 5060206,
5060207, 5060208, 5060209,
5062876

RULING ON CLAIMANT'S

MOTION FOR ORDER NUNC PRO TUNC

AND/OR REHEARING APPLICATION

On July 18, 2018, the undersigned filed an arbitration decision in these ten files. On July 19, 2018, claimant filed a motion for order nunc pro tunc and/or rehearing application. Claimant's motion is filed within the deadline for an application for rehearing. The motion will be considered as an application for rehearing pursuant to Iowa Code section 17A.16 and 876 IAC 4.24.

Claimant seeks amendment, or clarification of the arbitration decision in three respects. First, claimant contends that the file-stamp on the decision is erroneous and indicates that the decision was file July 18, 2010. Obviously, with a date of injury found of July 20, 2016, this decision was not filed six years prior to the date of injury. The undersigned was in private practice in 2010 and not employed with this agency. The date-stamp on the agency copy of the arbitration decision is faint, but clearly it was filed on July 18, 2018. The signature block at the end of the arbitration decision clearly indicates that the decision was entered on July 18, 2018. No further clarification is needed on this issue.

Second, claimant seeks clarification of the order section of the arbitration decisions dealing with medical bills. In the body of the arbitration decision I correctly referred to the medical expenses being attached as Tabs C and D of the hearing report. However, in the order section of the decision, I erroneously referred to Tab B of the hearing report. This was a scrivener's error, particularly since I correctly referred to the medical expenses in the body of the arbitration decision. I intended to award the medical expenses contained at Tabs C and D of the hearing report. It is appropriate to amend the order section of the arbitration decision to clarify this award.

Finally, claimant seeks to have the undersigned clarify and/or modify the award of interest pursuant to Gamble v. AG Leader Technology, File No. 5054686 (Appeal April 24, 2018). Specifically, claimant asks the undersigned to enter an order directing the specific amount of interest to be paid. However, the Iowa Workers' Compensation Commissioner has directed the deputies to include the specific language contained in the arbitration decision pertaining to interest. The undersigned followed the Commissioner's specific directive and is not inclined to modify or amend the language required by the Commissioner without further direction or order of the Commissioner. Therefore, the third request is denied.

ORDER

THEREFORE, IT IS ORDERED:

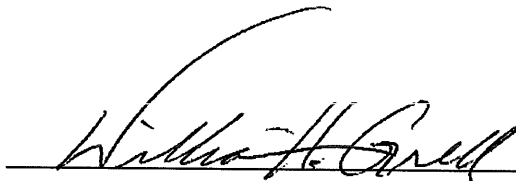
The claimant's motion for order nunc pro tunc and/or rehearing application is granted in part and denied in part.

The last paragraph on page 22 of the arbitration decision is amended to read:

Defendants shall reimburse claimant for all out-of-pocket medical expenses, shall pay or satisfy all outstanding medical expenses, liens, or subrogation claims, and shall hold claimant harmless for all medical expenses contained in or summarized in the attachments B and C of the hearing report.

The remaining requests in the claimant's motion are denied.

Signed and filed this 23rd day of July, 2018.



WILLIAM H. GRELL
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

Copies To:

R. Saffin Parrish-Sams
Attorney at Law
3408 Woodland Ave, Ste 302
West Des Moines, IA 50266
saffinpslaw@aol.com

FRAZIER v. FAREWAY STORES, INC.
Page 3

Michael S. Roling
Attorney at Law
6800 Lake Dr., Ste. 125
West Des Moines, IA 50266-2504
mike.roling@peddicord-law.com

WHG/kjw