

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JASON SPENCE,

Claimant,

vs.

TYSON FRESH MEATS, INC.,

Employer,
Self-Insured,
Defendant.

File No. 5046863

A P P E A L

D E C I S I O N

FILED

FEB 7 2017

WORKERS' COMPENSATION

Head Note Nos: 1101; 1803.1; 3001; 4000

Claimant Jason Spence appeals from an arbitration decision filed on July 6, 2015, and from a ruling on rehearing filed on August 5, 2015. Defendant Tyson Fresh Meats, Inc., self-insured employer, cross-appeals. The case was heard on April 8, 2015, and it was considered fully submitted in front of the deputy workers' compensation commissioner on April 24, 2015.

The deputy commissioner awarded claimant healing period benefits from January 28, 2013, through January 30, 2013, for a stipulated work injury which occurred on July 18, 2012. The deputy commissioner found claimant's permanent disability is confined to claimant's left hand and does not extend beyond the left hand into the body as a whole. The deputy commissioner found claimant is not entitled to industrial disability benefits. The deputy commissioner awarded 12 percent scheduled member permanent impairment of the left hand, which entitles claimant to 22.8 weeks of permanent partial disability (PPD) benefits commencing on January 31, 2013. The deputy commissioner found claimant's correct weekly benefit rate for this injury is \$599.89. The deputy commissioner found claimant is not entitled to penalty benefits. The deputy commissioner ordered defendant to provide claimant with further medical treatment for the work injury. The deputy commissioner ordered defendant to reimburse claimant for the cost of an independent medical evaluation (IME) performed by Sunil Bansal, M.D. on January 13, 2015. The deputy commissioner also ordered defendant to reimburse claimant for the filing fee for the arbitration petition as a cost of the arbitration proceeding.

Claimant asserts on appeal that the deputy commissioner erred in failing to award additional healing period benefits from January 31, 2013, through December 10, 2014. Claimant asserts the deputy commissioner erred in finding claimant's permanent disability is confined to claimant's left hand and does not extend beyond the left hand into the body as a whole. Claimant asserts the deputy commissioner erred in failing to award industrial disability benefits. Claimant asserts the deputy commissioner erred in

failing to find claimant's correct weekly benefit rate for this injury is \$646.36. Claimant asserts the deputy commissioner erred in failing to award penalty benefits.

Defendant asserts on cross-appeal that the deputy commissioner erred in ordering defendant to provide claimant with further medical treatment for the work injury.

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 July 6, 2015, and those portions of the ruling on rehearing filed on August 5, 2015, which relate to the 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 findings of fact and conclusions of law pertaining to those issues. I affirm the deputy commissioner's finding that claimant is not entitled to additional healing period benefits from January 31, 2013, through December 10, 2014. I affirm the deputy commissioner's finding that claimant's permanent disability is confined to his left hand and does not extend beyond the left hand into the body as a whole. I affirm the deputy commissioner's finding that claimant is not entitled to industrial disability benefits. I affirm the deputy commissioner's award of 12 percent scheduled member permanent impairment of the left hand, which entitles claimant to 22.8 weeks of PPD benefits commencing on January 31, 2013. I affirm the deputy commissioner's finding that claimant's correct weekly benefit rate for this injury is \$599.89. I affirm the deputy commissioner's finding that claimant is not entitled to penalty benefits. I affirm the deputy commissioner's order that defendant provide claimant with further medical treatment for the work injury. I affirm the deputy commissioner's order that defendant reimburse claimant for the cost of Dr. Bansal's IME. I also affirm the deputy commissioner's order that defendant reimburse claimant for the filing fee for the arbitration petition. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision of July 6, 2015, and the ruling on rehearing filed on August 5, 2015, are affirmed in their entirety.

Defendant shall pay claimant healing period benefits from January 28, 2013, through January 30, 2013, at the rate of five hundred ninety-nine and 89/100 dollars (\$599.89) per week.

Defendant shall pay claimant twenty-two point eight (22.8) weeks of permanent partial disability benefits commencing on January 31, 2013, at the rate of five hundred ninety-nine and 89/100 dollars (\$599.89) per week.

Defendant shall pay accrued weekly benefits in a lump sum together with interest pursuant to Iowa Code section 85.30.

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


Defendant shall reimburse claimant for Dr. Bansal's IME fee in the amount of two thousand nine hundred seventy-five and 00/100 dollars (\$2,975.00).

Defendant shall identify and authorize treatment with a pain specialist or at a pain center pursuant to the additional treatment recommendations made by Dr. Bansal.

Pursuant to rule 876 IAC 4.33, defendant shall reimburse claimant's filing fee in the amount of one hundred and 00/100 dollars (\$100.00) for the arbitration petition, and the parties shall split the costs of the appeal, including the cost of the hearing transcript.

Defendant shall file subsequent reports of injury as required by this agency pursuant to rule 876 IAC 3.1(2).

Signed and filed this 7th day of February, 2017.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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