

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

KELLY VAN VALKENBURG,

Claimant,

vs.

BRIDGESTONE AMERICAS, INC.,

Employer,

and

OLD REPUBLIC INSURANCE CO.,

Insurance Carrier,
Defendants.

File No. 19003419.01

A P P E A L

D E C I S I O N

Head Notes: 1402.40; 1803; 2907; 5-9998

Claimant Kelly Van Valkenburg appeals from an arbitration decision filed on February 27, 2023. Defendants Bridgestone Americas, Inc., employer, and its insurer, Old Republic Insurance Co., respond to the appeal. The case was heard on January 19, 2023. Because the parties opted not to file post-hearing briefs, the case was considered fully submitted at the conclusion of the arbitration hearing.

In the arbitration decision, the deputy commissioner found claimant proved he sustained permanent functional impairment of three percent of his right shoulder, which entitles claimant to receive 12 weeks of permanent partial disability benefits commencing on January 29, 2020, as a result of the stipulated work injury which occurred on June 26, 2019. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$100.30.

Claimant asserts on appeal that the deputy commissioner erred in relying on the opinions of Peter G. Matos, D.O., in finding claimant sustained three percent permanent functional impairment of his right shoulder as a result of the work injury. Claimant asserts the award for permanent impairment should be increased either to eleven percent permanent functional impairment, or to 23 percent permanent functional impairment, based on the opinions of Jacqueline Stoken, D.O.

Defendants assert on appeal that the arbitration decision should be affirmed in its entirety.

Those portions of the proposed arbitration decision pertaining to issues not raised on appeal are adopted as part of this appeal decision.

I performed a de novo review of the evidentiary record and the detailed arguments of the parties, and I reach the same analysis, findings, and conclusions as those reached by the deputy commissioner.

Pursuant to Iowa Code sections 17A.15 and 86.24, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed on January 19, 2023, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis of all 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 proved he sustained permanent functional impairment of three percent of his right shoulder as a result of the work injury. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$100.30.

I affirm the deputy commissioner's findings, conclusions, and analysis regarding the above-stated issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on February 27, 2023, is affirmed in its entirety.

Defendants shall pay claimant twelve (12) weeks of permanent partial disability benefits at the stipulated weekly rate of nine hundred eighty-eight and 21/100 dollars (\$988.21), commencing on the stipulated commencement date of January 29, 2020.

Defendants shall receive credit for all benefits previously paid.

Defendants shall pay accrued weekly benefits in a lump sum together with interest 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.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of one hundred and 30/100 dollars (\$100.30), and claimant 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 27th day of July, 2023.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Jerry Jackson (via WCES)

Timothy Wegman (via WCES)