

## BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

PAUL DAMJANOVIC,

Claimant,

vs.

HAWKEYE MOLD &amp; DESIGN CO.,

Employer,

FEDERATED SERVICE INS. CO.,

Defendants.

File No. 1666137.02

A P P E A L

D E C I S I O N

Head Notes: 1402.40; 1801; 1801.1; 1803  
1803.1; 2907; 5-9998

Claimant Paul Damjanovic appeals from an arbitration decision filed on April 25, 2023. Defendants Hawkeye Mold & Design Co., employer, and its insurer, Federated Service Insurance Company, respond to the appeal. The case was heard on January 23, 2023, and it was considered fully submitted in front of the deputy workers' compensation commissioner on February 24, 2023.

In the arbitration decision, the deputy commissioner found claimant's stipulated June 18, 2019, work injury is limited to a scheduled member, left arm injury. The deputy commissioner found claimant carried his burden of proof and is entitled to healing period benefits from August 5, 2019, through August 26, 2019, and from November 29, 2020, through April 19, 2022. However, the deputy commissioner found claimant was released to return to work without restrictions and failed to prove entitlement to healing period or temporary partial disability benefits from August 27, 2019, through November 28, 2020. The deputy commissioner found the opinions of Thomas Gorsche, M.D. to be most credible and convincing. Given that finding, the deputy commissioner found claimant proved he sustained 24 percent permanent impairment of the left arm which entitles claimant to an award of 60 weeks of permanent partial disability benefits commencing on April 18, 2022.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant's injury is limited to a scheduled member, left arm injury. Claimant asserts the deputy commissioner erred in his analysis of the healing period and temporary partial disability issues. Claimant asserts he is entitled to healing period or temporary partial disability benefits from June 19, 2019, through April 19, 2022. Claimant further asserts the deputy commissioner erred in rejecting the permanent impairment rating of the treating surgeon, Robert Bartelt, M.D. and accepting the permanent impairment rating of Dr. Gorsche. Finally, claimant asserts the deputy erred in awarding 60 weeks of

permanent partial disability benefits, and claimant asserts the award should be increased at least commensurate with the impairment rating provided by Dr. Bartelt.

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 April 25, 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's injury is limited to a scheduled member, left arm injury. I accept and affirm the deputy commissioner's assessment of claimant's credibility. I affirm the deputy commissioner's finding that claimant only proved entitlement to healing period benefits from August 5, 2019, through August 26, 2019, and from November 29, 2020, through April 19, 2022. I affirm the deputy commissioner's finding that Dr. Gorsche's permanent impairment rating is the most credible and convincing in this record and most consistent with claimant's grip strength. I affirm the deputy commissioner's finding that claimant proved 24 percent permanent disability of the left arm and I affirm the award of 60 weeks of permanent partial disability benefits.

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 April 25, 2023, is affirmed in its entirety.

Claimant was off work and is entitled to healing period benefits from August 5, 2019, to August 26, 2019, and from November 29, 2020, to April 19, 2022, at the stipulated weekly rate of five hundred fifty-five and 42/100 dollars (\$555.42).

Defendants are entitled to a credit of seventy-nine and 36/100 dollars (\$79.36) for an overpayment of benefits from June 19, 2019, to August 4, 2019.

Defendants shall pay claimant sixty weeks of permanent partial disability benefits at the stipulated weekly rate of five hundred fifty-five and 42/100 dollars (\$555.42) commencing on April 18, 2022.

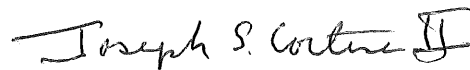
Defendants are entitled to credit for permanent partial disability benefits as stipulated.

Defendants shall pay accrued weekly benefits in a lump sum together with interest. All interest on past due weekly compensation benefits 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 Gamble v. AG Leader Technology, File No. 5054686 (App. Apr. 24, 2018).

Pursuant to rule 876 IAC 4.33, 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 20<sup>th</sup> day of September, 2023.



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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

The parties have been served as follows:

Judith O'Donohoe (via WCES)

Rene Charles Lapierre (via WCES)