

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

GARY CROSS,

Claimant,

vs.

CITY OF DES MOINES,

Employer,
Self-Insured,
Defendant.

File No. 1626330.01

A P P E A L

D E C I S I O N

Head Notes: 1402.40; 1803: 1804;
2907;

Claimant Gary Cross appeals from an arbitration decision filed on June 15, 2021. Defendant City of Des Moines, self-insured employer, cross-appeals. The case was heard on December 1, 2020, and it was considered fully submitted in front of the deputy workers' compensation commissioner on December 21, 2020.

In the arbitration decision, the deputy commissioner found claimant sustained 85 percent industrial disability as a result of the stipulated work injury, which occurred on August 26, 2016, which entitles claimant to receive 425 weeks of permanent partial disability benefits starting on the stipulated commencement date of September 18, 2019. The deputy commissioner ordered defendant to pay claimant's costs of the arbitration proceeding.

Defendant asserts on appeal that the award for industrial disability is excessive and should be reduced substantially.

Claimant asserts on cross-appeal that the deputy commissioner erred in failing to find claimant is permanently and totally disabled as a result of the work injury.

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

I have 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.5 and 86.24, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed on June 15, 2021, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis of all 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 sustained 85 percent industrial disability as a result of the stipulated work injury. I affirm the Deputy commissioner's order that defendant pay claimant's costs of the arbitration proceeding.

I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on June 15, 2021, is affirmed in its entirety.

Defendant shall pay claimant four hundred twenty-five (425) weeks of permanent partial disability benefits at the weekly rate of six hundred eighty-four and 30/100 dollars (\$684.30) starting on the stipulated commencement date of September 18, 2019.

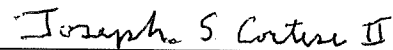
Defendant shall receive credit for all benefits previously paid.

Defendant 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 Gamble v. AG Leader Technology, File No. 5054686 (App. Apr. 24, 2018).

Pursuant to rule 876 IAC 4.33, defendant shall pay claimant's costs of the arbitration proceeding, and the parties shall split the costs of the appeal, including the cost of the hearing transcript.

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

Signed and filed on this 25th day of October, 2021.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

John Haraldson (via WCES)

Jason Neifert (via WCES)