

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

DARRYL BREWER,	:	
	:	File No. 5038723
Claimant,	:	
	:	A P P E A L
vs.	:	
	:	D E C I S I O N
GRIFFIN PIPE PRODUCTS,	:	
	:	
Employer,	:	
Self-Insured,	:	Head Notes: 1402.40; 1803; 2905; 2907;
Defendant.	:	5-9998

Claimant Darryl Brewer appeals from a review-reopening decision filed on December 17, 2018. Defendant Griffin Pipe Products, self-insured employer, responds to the appeal. The case was heard on August 7, 2018, and it was considered fully submitted in front of the deputy workers' compensation commissioner on August 31, 2018.

On June 18, 2010, claimant sustained a work-related injury. In the underlying arbitration decision filed in this case on March 29, 2013, the deputy commissioner found claimant was not at MMI for the work injury and claimant was awarded a running award of healing period benefits. The March 29, 2013, arbitration decision was not appealed.

On May 26, 2017, claimant filed a review-reopening petition to address the issue of the extent of his permanent disability resulting from the work injury. The review-reopening petition proceeded to hearing on August 7, 2018.

On December 17, 2018, the deputy workers' compensation commissioner issued a review-reopening decision finding claimant sustained 80 percent industrial disability as a result of the work injury, which entitles claimant to receive 400 weeks of permanent partial disability benefits commencing on April 13, 2016. The deputy commissioner found claimant failed to carry his burden of proof to establish he is permanently and totally disabled as a result of the work injury. The deputy commissioner ordered defendants to pay claimant's costs of the review-reopening proceeding in the amount of \$100.00.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant sustained 80 percent industrial disability as a result of the work injury. Claimant asserts the deputy commissioner erred in failing to find claimant is permanently and totally disabled as a result of the work injury.

Defendant asserts on appeal that the review-reopening decision should be affirmed in its entirety.

Those portions of the proposed agency 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 review-reopening decision filed on December 17, 2018, 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 review-reopening 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 80 percent industrial disability as a result of the work injury. I affirm the deputy commissioner's finding that claimant failed to prove he is permanently and totally disabled as a result of the work injury. I affirm the deputy commissioner's order that defendant pay claimant's costs of the review-reopening proceeding in the amount of \$100.00.

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

ORDER

IT IS THEREFORE ORDERED that the review-reopening decision filed on December 17, 2018, is affirmed in its entirety.

Defendant shall pay claimant four hundred (400) weeks of permanent partial disability benefits at the rate of seven hundred ten and 66/100 dollars (\$710.66) per week, commencing on April 13, 2016.


Defendant shall receive a 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 in the amount of one hundred and no/100 dollars (\$100.00), and claimant shall pay 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 17th day of February, 2020.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Jacob J. Peters Via WCES

Bill M. Lamson Via WCES