

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

KIMBERLY JO WILLIAMS, as Surviving
Spouse of John Williams (decedent) and
Grandparent and Sole Guardian of
E.J.W., a minor,

Claimant,

vs.

CITY OF CORALVILLE,

Employer,

and

IMWCA,

Insurance Carrier,
Defendants.

File No. 22007837.01

EQUITABLE APPORTIONMENT

DECISION

Head Notes: 1203

STATEMENT OF THE CASE

This is a decision regarding equitable apportionment of death benefits payable as a result of a work-related death of John Williams on July 3, 2022. Decedent's employer and insurer (Defendants) brought this action requesting a determination of the proper apportionment of weekly benefits to the surviving spouse, Kimberly Jo Williams, and minor grandchild, E.J.W.

This matter was submitted on the record on February 3, 2023. The record in this case consists of Exhibits 1 through 3.

ISSUES

1. What is the proper apportionment of death benefits between the surviving spouse and the minor grandchild.

FINDINGS OF FACT

John Williams died during the course of his employment with the City of Coralville on July 3, 2022. Claimant had a fatal heart attack. After investigation, the death was found to be compensable by the defendants.

At the time of death, claimant was married. Claimant and his wife, Kimberly Jo Williams, had four children. None of the children were dependents at the time of death. (Exhibit 2, p. 13)

Prior to his death, claimant and his wife were appointed legal guardian of their granddaughter, E.J.W., on July 19, 2019, by the Johnson County District Court. (Ex. 3, p. 30)

After claimant's death, the same court appointed Kimberly Jo Williams as the sole guardian of E.J.W. on September 15, 2022. (Ex. 3, pp. 33-35)

In deposition, Ms. Williams testified that she and her husband provided a "home base" for E.J.W. since she was born. (Ex. 3, p. 15) Ms. Williams testified that she and her husband provided 90-95 percent of the financial support for E.J.W. Ms. Williams testified that she is the primary source of emotional, financial, and domestic support for E.J.W. (Ex. 3, p. 16)

Ms. Williams testified she intends to provide financial, emotional, and domestic support for E.J.W. until she reaches majority. She said her late husband's death benefits have been paid to her by defendant insurer. She said she uses those benefits for the care and support of E.J.W. (Ex. 3, p. 21) Weekly death benefits for claimant have been paid solely to Ms. Williams. (Ex. 3, p. 21)

CONCLUSION OF LAW

The only issue in this matter is equitable apportionment of the weekly death benefits in this case.

Iowa Code section 85.31(1)(a) indicates, in relevant part that:

When death results from the injury, the employer shall pay the dependents who were wholly dependent on the earnings of the employee for support at the time of the injury . . . as follows:

- (1) To the surviving spouse for life or until remarriage . . .
- (2) To any child of the deceased until the child shall reach the age of eighteen, provided that a child beyond eighteen years of age shall receive benefits to the age of twenty-five if actually dependent, and the fact that a child is under twenty-five years of age and is enrolled as a full-time student in any accredited educational institution shall be a prima facie showing of actual dependency.
- (3) To any child who was physically or mentally incapacitated from earning at the time of the injury causing death for the duration of the incapacity from earning.
- (4) To all other dependents as defined in section 85.44 for the duration of the incapacity from earning.

Iowa Code section 85.44 states, in relevant part that:

In all other cases, a dependent shall be one actually dependent or mentally or physically incapacitated from earning. Such status shall be determined in accordance with the facts as of the date of the injury.

The record indicates that prior to his death, John and Kimberly Jo Williams were the primary sources of emotional, financial, and domestic support for E.J.W. They were appointed the guardians for E.J.W. in 2019. After claimant's death, Ms. Williams continues to be the main emotional, financial, and domestic support for E.J.W. Since July of 2022 Ms. Williams has been the sole guardian for E.J.W. The record indicates E.J.W. is fully dependent on Ms. Williams for support. Ms. Williams relies on claimant's death benefits to continue to support E.J.W. (Ex. 3, pp. 21-22)

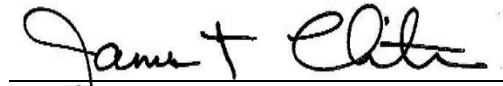
Based on the above record, E.J.W. is found a dependent as that term is defined under Iowa Code section 85.44. Based on the above, it is found that the death benefits should continue to be paid solely to Kimberly Jo Williams in the entirety.

ORDER

THEREFORE IT IS ORDERED:

That the weekly death benefits shall continue to be paid to Kimberly Jo Williams in full.

Signed and filed this ____8th____ day of February, 2023.



JAMES F. CHRISTENSON
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Ryan Clark (via WCES)