

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

CHARLES ANDERSON,

Claimant,

vs.

BRIDGESTONE AMERICAS, INC.,

Employer,

and

OLD REPUBLIC INS. CO.,

Insurance Carrier,

and

SECOND INJURY FUND OF IOWA,
Defendants.

File No. 5067475

A P P E A L
D E C I S I O N

: Head Notes: 1302.20; 1402.40; 1802; 1803;
: 1803.1; 2209; 2501; 2502;
: 2907; 5-9998

Defendants Bridgestone Americas, Inc., (Bridgestone) employer, and its insurance carrier, Old Republic Insurance Company, (Old Republic) appeal from an arbitration decision filed on September 2, 2021. Claimant Charles Anderson cross-appeals against Bridgestone and Old Republic and claimant appealed against defendant Second Injury Fund of Iowa (the Fund). The Fund makes no response to the appeal filed against it by claimant because on November 22, 2021, claimant dismissed his appeal against the Fund, and the Fund was therefore dropped from the case. The case was heard on April 1, 2021, and it was considered fully submitted in front of the deputy workers' compensation commissioner on May 3, 2021.

In the arbitration decision, the deputy commissioner found claimant carried his burden of proof to establish he sustained injuries on October 31, 2018, which arose out of and in the course of his employment with Bridgestone. The deputy commissioner found claimant sustained permanent disability of his right arm and of his right shoulder as a result of the work injury. The deputy commissioner found that because claimant sustained permanent disability of his right arm and of his right shoulder as a result of the work injury, claimant is entitled to receive industrial disability benefits pursuant to Iowa Code section 85.34(2)(v). The deputy commissioner found claimant sustained 50 percent industrial disability as a result of the work injury, which entitles Claimant to

receive 250 weeks of permanent partial disability benefits from Bridgestone and Old Republic commencing on November 15, 2019. The deputy commissioner found claimant is entitled receive healing period benefits from Bridgestone and Old Republic from November 2, 2018, through November 14, 2019. The deputy commissioner found Bridgestone and Old Republic are responsible for the requested past medical expenses and the requested medical mileage itemized in claimant's Exhibit 9. The deputy commissioner found claimant is not entitled to receive benefits from the Fund. The deputy commissioner ordered Bridgestone and Old Republic to pay claimant's costs of the arbitration proceeding in the amount of \$106.85.

Bridgestone and Old Republic assert on appeal that the deputy commissioner erred in finding claimant proved he sustained work-related injuries on October 31, 2018. Bridgestone and Old Republic assert the deputy commissioner erred in finding claimant sustained permanent disability of his right arm and of his right shoulder as a result of the work injury. Bridgestone and Old Republic assert the deputy commissioner erred in finding that because claimant sustained permanent disability of his right arm and of his right shoulder as a result of the work injury that claimant is entitled to receive industrial disability benefits pursuant to Iowa Code section 85.34(2)(v). Bridgestone and Old Republic assert that the deputy commissioner erred in finding claimant sustained 50 percent industrial disability because of the work injury. Bridgestone and Old Republic assert the deputy commissioner erred in finding claimant is entitled to receive healing period benefits. Bridgestone and Old Republic assert the deputy commissioner erred in finding Bridgestone and Old Republic are responsible for the requested past medical expenses and the requested medical mileage. Bridgestone and Old Republic assert the deputy commissioner erred in ordering Bridgestone and Old Republic to pay claimant's costs of the arbitration proceeding.

Claimant asserts on cross-appeal that the deputy commissioner erred in finding claimant sustained 50 percent industrial disability as a result of the work injury. Claimant asserts the award for industrial disability should be increased substantially. Claimant asserts the deputy commissioner erred in failing to tax Bridgestone and Old Republic for the cost of two of claimant's medical reports totaling \$2,575.00.

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 September 2, 2021, 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 work-related injuries on October 31, 2018. I affirm the deputy commissioner's finding that claimant sustained permanent disability of his right arm and of his right shoulder as a result of the work injury. I affirm the deputy commissioner's finding that because claimant sustained permanent disability of his right arm and of his right shoulder as a result of the work injury, claimant is entitled to receive industrial disability benefits pursuant to Iowa Code section 85.34(2)(v). I affirm the deputy commissioner's finding that claimant sustained 50 percent industrial disability as a result of the work injury. I affirm the deputy commissioner's finding that claimant is entitled to receive healing period benefits from November 2, 2018, through November 14, 2019. I affirm the deputy commissioner's finding that Bridgestone and Old Republic are responsible for the requested past medical expenses and the requested medical mileage. I affirm the deputy commissioner's order that Bridgestone and Old Republic pay claimant's costs of the arbitration proceeding in the amount of \$106.85, and I affirm the deputy commissioner's finding that claimant is not entitled to reimbursement from Bridgestone and Old Republic for the cost of two of claimant's medical reports totaling \$2,575.00.

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 September 2, 2021, is affirmed in its entirety.

All weekly benefits shall be paid at the stipulated weekly rate of nine hundred seventy-three and 03/100 dollars (\$973.03).

Bridgestone and Old Republic shall pay claimant healing period benefits from November 2, 2018, through November 14, 2019.

Bridgestone and Old Republic shall pay claimant two hundred fifty (250) weeks of permanent partial disability benefits commencing on November 15, 2019.

Bridgestone and Old Republic shall receive credit for all weekly benefits paid to date.

Bridgestone and Old Republic shall receive credit pursuant to Iowa Code section 85.38(2) as set forth on the hearing report.

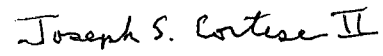
Bridgestone and Old Republic shall pay accrued weekly benefits in a lump sum together with interest payable at an annual rate equal to the one-year treasury constant maturity published by the federal reserve in the most recent H15 report settled as of the date of injury, plus two percent, as required by Iowa Code section 85.30.

Bridgestone and Old Republic are responsible for the requested past medical expenses and the requested medical mileage itemized in claimant's Exhibit 9.

Pursuant to rule 876 IAC 4.33, Bridgestone and Old Republic shall pay claimant's costs of the arbitration proceeding in the amount of \$106.85, 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), Bridgestone and Old Republic shall file subsequent reports of injury as required by this agency.

Signed and filed on this 25th day of January, 2022.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Channing Dutton (via WCES)

Timothy Wegman (via WCES)