

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JEREMY J. VAN WYHE,

Claimant,

vs.

BRAD GROENEWEG TRUCKING,

Employer,

and

GRINNELL MUTUAL REINSURANCE,

Insurance Carrier,
Defendants.

Head Note Nos: 1402.30; 1803; 2500;
2501; 2907; 5-9998

File No. 5053966

A P P E A L

D E C I S I O N

FILED

FEB 11 2019

WORKERS' COMPENSATION

Defendants Brad Groeneweg Trucking, employer, and its insurer, Grinnell Mutual Reinsurance, appeal from an arbitration decision filed on October 25, 2017. Claimant Jeremy J. Van Whye responds to the appeal. The case was heard on January 27, 2017, and it was considered fully submitted in front of the deputy workers' compensation commissioner on March 16, 2017.

The deputy commissioner found claimant carried his burden of proof that the stipulated injury which arose out of and in the course of his employment with defendant-employer on July 16, 2014, caused claimant to sustain a permanent material aggravation of his pre-existing cervical spine condition. The deputy commissioner found claimant sustained 65 percent industrial disability, which entitles claimant to receive 325 weeks of permanent partial disability (PPD) benefits commencing on October 14, 2016, as a result of the work injury. The deputy commissioner found claimant is entitled to payment by defendants for the requested past medical expenses itemized in Exhibit 3 and in the attachment to the hearing report. The deputy commissioner found claimant is entitled to receive ongoing medical treatment at defendants' expense for his cervical spine condition. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$100.00.

Defendants assert on appeal that the deputy commissioner erred in finding claimant carried his burden of proof that the work injury caused claimant to sustain permanent disability. Defendants assert the deputy commissioner erred in finding claimant sustained 65 percent industrial disability as a result of the work injury.

Defendants assert that if it is found on appeal that the work injury did cause claimant to sustain permanent disability, it should be found that claimant's industrial disability is minimal and the award should be reduced substantially. Defendants assert the deputy commissioner erred in finding claimant is entitled to payment by defendants for the requested past medical expenses. Defendants assert the deputy commissioner erred in finding claimant is entitled to receive ongoing medical treatment for his cervical spine condition at defendants' expense. Defendants assert the deputy commissioner erred in ordering defendants to pay claimant's costs of the arbitration proceeding.

Claimant asserts on appeal that the arbitration 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 arbitration decision filed on October 25, 2017, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided sufficient 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 carried his burden of proof that the July 16, 2014, work injury caused him to sustain permanent disability. I affirm the deputy commissioner's finding that claimant sustained 65 percent industrial disability as a result of the work injury. I affirm the deputy commissioner's finding that claimant is entitled to payment by defendants for the requested past medical expenses itemized in Exhibit 3 and in the attachment to the hearing report. I affirm the deputy commissioner's finding that claimant is entitled to receive ongoing medical treatment for his cervical spine condition at defendants' expense. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration 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 arbitration decision filed on October 25, 2017, is affirmed in its entirety.

Defendants shall pay claimant three hundred twenty-five (325) weeks of permanent partial disability benefits at the stipulated weekly rate of six hundred eighteen and 46/100 dollars (\$618.46) commencing on the stipulated date of October 14, 2016.

Defendants shall receive credit for all benefits previously paid.

Defendants 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).

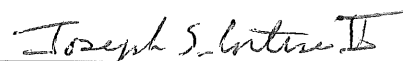
Defendants shall pay the requested past medical expenses itemized in Exhibit 3 and in the attachment to the hearing report.

Defendants shall authorize either an orthopedic surgeon or a neurosurgeon to provide claimant with ongoing medical treatment for his cervical spine condition and defendants shall be responsible for providing all care recommended by or through that physician and for payment of all expenses related to that medical care.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of one hundred and no/100 dollars (\$100.00), and defendants 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 11th day of February, 2019.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

Copies to:

Bram Weidenaar
Attorney at Law
809 West 10th St., Ste. A
Sioux Falls, SD 57104
bram@alvineandkinglaw.com

Sarah K. Kleber
Attorney at Law
1128 Historic 4th St
PO Box 3086
Sioux City, IA 51102
Sarah.kleber@heidmanlaw.com