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BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

ALICIA FISHER)	Contested File No.:	5061028
)	Date of Loss:	02/04/16
Claimant,)		
)		
vs.)		
)		
JOHN DEERE WATERLOO WORKS)		
)		
Employer / Defendant,)		
Self-Insured.)		

FILED
MAR 07 2018
WORKERS' COMPENSATION

MOTION NUNC PRO TUNC

COMES NOW, the Claimant, Alicia Fisher, by and through her undersigned counsel, and for her Motion Nunc Pro Tunc respectfully states:

1. This matter was fully submitted post-hearing on August 2, 2017 and an arbitration decision was issued on March 5, 2018.

2. The arbitration decision on page 7 contains the following paragraph,

“Considering Alicia’s age, educational background, employment history, ability to retrain, motivation to maintain her employment, length of healing period, permanent impairment, and permanent restrictions, and the other industrial disability factors set forth by the Iowa Supreme Court, I find that she has sustained a *20 percent loss of future earning capacity as a result of her work injury with Deere.* (Arb. Dec. p. 7; Emphasis added)

3. However, arbitration decision on page 10, contains the following sentence,

“Based on the above findings of fact, I conclude that claimant has carried her burden of proof to show by a preponderance of the evidence that she sustained a *15 percent industrial disability as a result of the work injury.* (Arb. Dec. p. 10; Emphasis added).

4. The arbitration decision on page 11, awarded Claimant, *inter alia*, 75 weeks of permanent partial disability benefits. (Arb. Dec. p. 11)

5. Thus, there appears to be a scrivener's error as to whether the industrial award is 20% or 15%.

WHEREFORE, the Claimant respectfully prays this Motion be granted and Order Nunc Pro Tunc issued to correct the decision to clarify whether the decision is for a 15% or 20% industrial loss.

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PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses disclosed on the pleadings on **March 5, 2018** by:

- | | |
|---|---|
| <input checked="" type="checkbox"/> U.S. Mail | <input type="checkbox"/> FAX |
| <input type="checkbox"/> Hand Delivered | <input type="checkbox"/> Certified Mail |
| <input type="checkbox"/> FedEx/Airborne Express | <input type="checkbox"/> Other |

Signature: 

SUSTAINED

Claimant's industrial loss

is 15%

March 7, 2018

DEPUTY WORKERS' COMPENSATION COMMISSIONER