

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

EDUARDO JIMENEZ,

Claimant,

vs.

JBS SWIFT,

Employer,  
Self-Insured,  
Defendant.

**FILED**

FEB 26 2018

File No. 5052294

WORKERS' COMPENSATION

A P P E A L

D E C I S I O N

Head Note No: 1803; 3001; 5-9998

Defendant JBS Swift, self-insured employer, appeals from an arbitration decision filed on September 12, 2016. Claimant Eduardo Jimenez responds to the appeal. The case was heard on March 21, 2016, and it was considered fully submitted in front of the deputy workers' compensation commissioner on June 20, 2016.

The deputy commissioner found claimant sustained 50 percent industrial disability, which entitles claimant to receive 250 weeks of permanent partial disability (PPD) benefits commencing on May 24, 2014, as a result of the stipulated injury which arose out of and in the course of claimant's employment with defendant-employer on February 27, 2013. The deputy commissioner found claimant is entitled to receive healing period benefits from August 31, 2013, through May 23, 2014. The deputy commissioner found claimant's correct gross average weekly wage for the work injury is \$871.60, and the deputy commissioner found claimant's correct weekly benefit rate for the injury, classification married with three exemptions, is \$581.42. The deputy commissioner also ordered defendant to pay claimant's costs of the arbitration proceeding.

Defendant asserts on appeal that the deputy commissioner erred in finding claimant sustained 50 percent industrial disability as a result of the work injury. Defendant asserts the award of industrial disability should be reduced by a substantial amount.

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.

Having performed a de novo review of the evidentiary record and the detailed arguments of the parties, 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 12, 2016, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided sufficient analysis of the issues raised in the arbitration proceeding. I affirm the deputy commissioner's finding that claimant sustained 50 percent industrial disability as a result of the work injury, which entitles claimant to receive 250 weeks of PPD benefits commencing on May 24, 2014. I affirm the deputy commissioner's finding that claimant is entitled to receive healing period benefits from August 31, 2013, through May 23, 2014. I affirm the deputy commissioner's finding that claimant's correct gross average weekly wage for the work injury is \$871.60, and I affirm the deputy commissioner's finding that claimant's correct weekly benefit rate for the work injury, is \$581.42. I affirm the deputy commissioner's order that defendant pay claimant's costs of the arbitration proceeding. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

#### ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on September 12, 2016, is affirmed in its entirety.

Defendant shall pay claimant healing period benefits from August 31, 2013, through May 23, 2014, at the weekly rate of five hundred eighty-one and 42/100 dollars (\$581.42).

Defendant shall pay claimant two hundred fifty (250) weeks of permanent partial disability benefits commencing May 24, 2014, at the weekly rate of five hundred eighty-one and 42/100 dollars (\$581.42).

Defendant shall be given credit for all benefits paid to date.

Defendant shall pay accrued weekly benefits in a lump sum together with interest pursuant to Iowa Code section 85.30.

Pursuant to rule 876 IAC 4.33, defendant shall pay claimant's costs of the arbitration proceeding, and defendant 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 26<sup>th</sup> day of February, 2018.



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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

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