

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

DAMIEN I. KYHL,

Claimant,

vs.

CENTRAL TANK COATINGS, INC.,

Employer,

and

AMERICAN INTERSTATE INSURANCE :
COMPANY, a/k/a AMERISAFE RISK :
SERVICES, INC., :

Insurance Carrier, :
Defendants. :



File No. 5055921

RULING ON APPLICATION
FOR REHEARING

On October 30, 2017, defendants filed their application for rehearing (application). Claimant does not resist the application. On the same date, claimant filed his application for rehearing (application). Defendants resist the application. Both applications are considered in this ruling.

Regarding defendants' application, defendants contend that one of the dates found in the table on page 6 of the arbitration decision is incorrect. Defendants contend the date shown as "10/15/13" should actually be labeled "10/5/13". A review of the exhibits in this case indicates this is correct. The date of the table found on page 6 of the arbitration decision should be changed from "10/15/13" to "10/5/13".

Regarding claimant's application, claimant contends defendants are liable for a penalty as defendants did not show a reasonable excuse for an alleged underpayment (Claimant's application, page 3). For the reasons detailed in the arbitration decision it is again found a penalty is not appropriate in this case. Claimant's application is denied as to this ground.

Second, in the application claimant contends the undersigned was obliged to resolve the alleged dispute regarding interest and credit due in this case. As noted in the arbitration decision, the undersigned found the rate in this case to be \$648.52 per week. This is a rate different from that argued for by both parties at hearing.

As noted in defendants' resistance, there has been no showing the parties cannot resolve the issue of interest and credit following a final decision regarding rate. The parties are respectfully requested to resolve the matter of interest and credit due. If the parties are unable to do so, this issue may be raised on appeal. Thilges v. Snap-On Tools Corp., 531 N.W.2d 644 (Iowa 1995).

ORDER

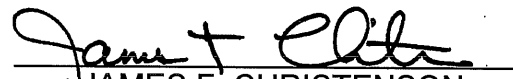
Therefore it is ordered.

That claimant's application is denied.

That defendants' application is granted and the date of the table found on page 6 of the arbitration decision is changed to reflect a date of "10/5/13"

The decision remains the same in all other respects.

Signed and filed this 26th day of November, 2017.


JAMES F. CHRISTENSON
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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