

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

KENNETH EDWARDS,

Claimant,

vs.

BROCK ATLANTIC SERVICES

Employer,

and

ILLINOIS NATIONAL INS. CO.,

Insurance Carrier,
Defendants.

File No. 5059300

A P P E A L

D E C I S I O N

Head Notes: 1100; 1402.40; 1801; 1803;
2501; 2907; 5-9998

Defendants Brock Atlantic Services, employer, and its insurer, Illinois National Insurance Company, appeal from an arbitration decision filed on July 17, 2019. Claimant Kenneth Edwards responds to the appeal. The case was heard on May 29, 2019, and it was considered fully submitted in front of the deputy workers' compensation commissioner on June 21, 2019.

The deputy commissioner found claimant carried his burden of proof to establish he sustained an injury which arose out of and in the course of his employment with defendant-employer on August 10, 2015. The deputy commissioner found claimant sustained permanent disability as a result of the work injury. The deputy commissioner found claimant sustained 40 percent industrial disability as a result of the work injury, which entitles him to receive 200 weeks of permanent partial disability benefits commencing on the stipulated commencement date of July 31, 2017. The deputy commissioner found claimant is entitled to receive healing period benefits from October 4, 2016, through July 31, 2017. The deputy commissioner found claimant is entitled to payment by defendants for the requested past medical expenses itemized in the attachment to the hearing report and itemized in Exhibits 2 through 6. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$100.00 for the filing fee.

Defendants assert the deputy commissioner erred in finding claimant carried his burden of proof to establish he sustained a work injury as alleged, and in finding claimant sustained permanent disability as a result. Defendants assert the deputy commissioner erred in finding claimant sustained any industrial disability as a result of the work injury. Defendants assert the award for industrial disability should either be reduced substantially or reversed entirely. Defendants assert the deputy commissioner erred in finding claimant is entitled to receive any healing period benefits. 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 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 July 17, 2019, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned 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 to establish he sustained a work-related injury on August 10, 2015. I affirm the deputy commissioner's finding that claimant sustained 40 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 October 4, 2016, through July 31, 2017. I affirm the deputy commissioner's finding that claimant is entitled to payment by defendants for the requested past medical expenses. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$100.00 for the filing fee.

I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on July 17, 2019, is affirmed in its entirety.

All weekly benefits shall be paid at the stipulated weekly rate of five hundred thirty-four and 60/100 dollars (\$534.60).

Defendants shall pay claimant healing period benefits from October 4, 2016, through July 31, 2017.

Defendants shall pay claimant 200 weeks of permanent partial disability benefits, beginning on the stipulated commencement date of July 31, 2017.

Defendants shall receive a credit for all benefits paid to date.

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 reimburse claimant for his out-of-pocket medical expenses itemized in the attachment to the hearing report and in Exhibits 2 through 6, and defendants shall pay, reimburse, or otherwise satisfy all remaining medical expenses itemized therein.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of \$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 15th day of April, 2020.

Joseph S. Cortese II

JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Bryan Goldsmith Via WCES

Michael O. Carpenter Via WCES

Jean Z. Dickson Via WCES