

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

RAUL LOZA MARTINEZ,

Claimant,

vs.

CURLY'S FOODS,

Employer,

and

SAFETY NATIONAL,

Insurance Carrier,  
Defendants.

File No. 5060170

A P P E A L

D E C I S I O N

Head Notes: 1108.50; 1402.40; 1803;  
2907; 5-9998

Defendants Curly's Foods, employer, and its insurer, Safety National, appeal from an arbitration decision filed on August 6, 2019. Claimant Raul Loza Martinez responds to the appeal. The case was heard on April 3, 2019, and it was considered fully submitted in front of the deputy workers' compensation commissioner at the conclusion of the arbitration hearing.

The deputy commissioner found claimant sustained 75 percent industrial disability as a result of the stipulated work-related injury which occurred on May 25, 2017, which entitles claimant to receive 375 weeks of permanent partial disability benefits commencing on February 2, 2019. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding.

Defendants assert on appeal that the deputy commissioner erred in finding claimant sustained 75 percent industrial disability as a result of the work injury. Defendants assert the award for industrial disability should be reduced substantially.

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 August 6, 2019, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis 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 sustained 75 percent industrial disability as a result of the work injury. I affirm the deputy commissioner's order that defendants 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 August 6, 2019, is affirmed in its entirety.

Defendants shall pay claimant three hundred seventy-five (375) weeks of permanent partial disability benefits at the stipulated weekly rate of five hundred seventy and 84/100 dollars (\$570.84) commencing on February 2, 2019.

Defendants shall receive 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).

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding, 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 3<sup>rd</sup> day of June, 2020.

*Joseph S. Cortese II*  
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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

The parties have been served as follows:

Tom L. Drew                      Via WCES

Timothy A. Clausen          Via WCES