

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

ALLEN NIELAND,

Claimant,

vs.

NEAL STATION ENVIRONMENTAL  
PARTNERS,

Employer,

and

AMERICAN ZURICH INSURANCE  
COMPANY,

Insurance Carrier,  
Defendants.

**FILED**

**JUL - 5 2017**

WORKERS' COMPENSATION

File No. 5043877

REHEARING

DECISION

Head Note No: 1803

Defendants filed an application for rehearing (application). Claimant resists the application. The application is considered.

Defendants' application is essentially a request for clarification for the date when the payment of permanent partial disability benefits commences.

In the December 22, 2015, arbitration decision, the deputy found "...the commencement date for permanent partial disability benefits is March 15, 2012, less the period claimant was employed subsequent to being fired by employer." (Arbitration Decision, page 8) The order of that decision required that, "Defendants shall pay unto the claimant three hundred fifty (350) weeks of permanent partial disability benefits at the rate of eight hundred forty-three and 03/100 dollars (\$843.03) per week from **March 15, 2015**, less any periods of employment after that date." (Arbitration Dec., p. 8)(emphasis added)

An Order Nunc Pro Tunc, issued December 31, 2015, indicated the commencement date for permanent partial disability benefits is March 15, 2012. The Appeal decision, in this matter, found permanent partial disability benefits to commence on March 15, 2012. The Appeal Decision also noted "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." (Appeal Decision, page 2)

The date of injury in this case was March 15, 2012. There was no claim for temporary benefits, and no temporary benefits were paid to claimant.

The Iowa Supreme Court recently held the date of a claimant's return to work establishes the end of healing period benefits, and the commencement of permanent partial disability benefits, when the return to work is the earliest of the events triggering commencement of permanent partial disability benefits under Iowa Code section 85.34(1) Evenson v Winnebago Industries, Inc, 881 N.W. 2d 360, at 372-374 (2016).

Based on the above, claimant's entitlement to permanent partial disability benefits in this matter commenced on March 15, 2012.

As noted above, defendants' application requests clarification for the correct date for the commencement of permanent partial disability benefits. Based on that understanding, claimant's application is granted.

ORDER

THEREFORE IT IS ORDERED:

Defendants' application is granted. The correct date for the commencement of permanent partial disability benefits is March 15, 2012.

Signed and filed this 5th day of July, 2017.



---

JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

Copies To:

Pamela Greenman Dahl  
Attorney at Law  
974 73<sup>RD</sup> Street, Ste. 16  
Des Moines, IA 50312-1090  
[harrywdahl@msn.com](mailto:harrywdahl@msn.com)

Patrick B. Donahue  
Attorney at Law  
9290 West Dodge Rd., Ste. 302  
Omaha, NE 68114-3320  
[pdonahue@ctagd.com](mailto:pdonahue@ctagd.com)