

## BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

BRYAN FREESE,

Claimant,

vs.

TREEHOUSE FOODS, INC.,

Employer,

and

TRAVELERS INDEMNITY  
INSURANCE CO. OF CT.,Insurance Carrier,  
Defendants.

File No. 20004609.01

RULING ON CLAIMANT'S

MOTION FOR ORDER

NUNC PRO TUNC

On February 8, 2022, the undersigned filed an arbitration decision in this case. On February 15, 2022, claimant filed a motion for order nunc pro tunc. Defendants have not yet filed a response to the claimant's motion. The motion could be considered as a nunc pro tunc order or as a rehearing request.

Regardless of the procedural mechanism used, it is clear that the undersigned made a scrivener's error in the decision that would cause confusion. Specifically, the fourth full paragraph on page 14 of the arbitration decision is out of place and not intended to be contained within the decision. Previously in the decision, the undersigned concluded that medical benefits should be awarded and the order section on page 18 accurately awards medical benefits. The fourth full paragraph on page 14 is inaccurate, contrary to the intention of the undersigned, and should be corrected.

The phrase, "nunc pro tunc" means "now for then." See: Black's Law Dictionary, page 1218 (Revised 4th Edition 1968). The definition in Black's Law Dictionary further provides: "A phrase applied to acts allowed to be done after the time when they should be done, with a retroactive effect, i.e. with the same effect as if regularly done." Black's at 1218. A nunc pro tunc order "is not for the purpose of correcting judicial thinking, a judicial conclusion, or a mistake of law." Headley v. Headley, 172 N.W.2d 104, 108 (Iowa 1969). The nunc pro tunc order can be employed to correct obvious errors or to make an order conform to the judge's original intent. Graber v. District Court for Washington City, 410 N.W.2d 224, 229 (Iowa 1987). Brinson v. Spee Dee Delivery Service, No. 8-754/06-2074 (Iowa App., 2008).

Iowa Code section 17A.16(2) and 876 IAC 4.24 permit a party to file a request for rehearing and permit a deputy commissioner to correct an error in his or her findings of fact or conclusions of law. In this instance, claimant filed his motion within the applicable deadline to request a rehearing.

Regardless of whether the motion is most appropriately considered as a motion for a nunc pro tunc order or a request for rehearing, it is appropriate to correct my error in the arbitration decision to avoid confusion.

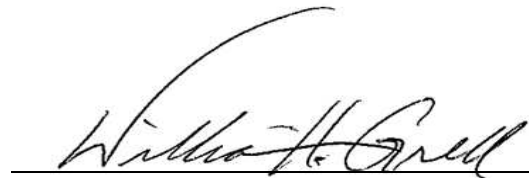
THEREFORE, IT IS ORDERED:

Claimant's motion for order nunc pro tunc is sustained.

The fourth full paragraph on page 14 of the arbitration decision is stricken from the decision.

The remainder of the decision remains in full force and effect.

Signed and filed this 28<sup>th</sup> day of February, 2022.

A handwritten signature in black ink, reading "William H. Grell", is written over a horizontal line.

WILLIAM H. GRELL  
DEPUTY WORKERS'  
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Andrew Giller (via WCES)

Julie Burger (via WCES)