

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

CARLOS CESAR DOMINGUEZ,

Claimant,

vs.

HY-VEE DISTRIBUTION CENTER,

Employer,

and

UNION INSURANCE COMPANY OF
PROVIDENCE,Insurance Carrier,
Defendants.

File Nos. 1660837.01, 20700397.01

ORDER NUNC PRO TUNC

On October 27, 2021, defendants filed a motion for nunc pro tunc. There is no resistance on file. The basis of the motion is that the order section erroneously states that that the defendants are to pay eleven (11) weeks of permanent partial disability (PPD) benefits.

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. Dist. Court for Washington Cty., 410 N.W.2d 224, 229 (Iowa 1987). Brinson v. Spee Dee Delivery Service, No. 8-754/06-2074 (Iowa App., 2008).


Claimant's motion is granted. A scrivener's error was made in the Order section of the arbitration decision and the hearing decision should be amended to accurately reflect that claimant sustained a 4 percent impairment to the lower left extremity which is 8.8 weeks of PPD benefits.

THEREFORE IT IS ORDERED, the defendants' application for Order Nunc Pro Tunc is granted.

The Order section shall read as follows:

That defendants are to pay unto claimant eight point eight (8.8) weeks of permanent partial disability benefits at the rate of four hundred thirty-six and 12/100 dollars (\$436.12) per week from September 17, 2019.

Signed and filed this 15th day of November, 2021.


JENNIFER S. GERRISH-LAMPE
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

James Byrne (via WCES)

Lindsey Mills (via WCES)