

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

RUKHSANA DRAHOZAL,

Claimant,

vs.

AMERICAN AIRLINES, INC., d/b/a  
ENVOY AIR,

Employer,

and

NEW HAMPSHIRE INSURANCE  
COMPANY,

Insurance Carrier,  
Defendants.

**FILED**

**SEP 12 2018**

**WORKERS' COMPENSATION**

File No. 5056606

**A P P E A L  
D E C I S I O N**

Head Note Nos: 1108.20; 1402.30; 1402.40;  
1803.1; 1803; 1804; 2204;  
2501; 4000.2; 4100

Defendants American Airlines, Inc., d/b/a Envoy Air, employer, and its insurer, New Hampshire Insurance Company, appeal from an arbitration decision filed on December 21, 2017. Claimant Rukhsana Drahozal cross-appeals. The case was heard on August 14, 2017, and it was considered fully submitted in front of the deputy workers' compensation commissioner on September 18, 2017.

The deputy commissioner found claimant carried her burden of proof that the stipulated injury which arose out of and in the course of claimant's employment with defendant-employer on January 4, 2015, caused claimant to sustain permanent injuries to her bilateral hands and a permanent sequela mental injury. The deputy commissioner found claimant is entitled to receive healing period benefits for the work injury from January 12, 2015, through February 10, 2017. The deputy commissioner found claimant sustained 80 percent industrial disability as a result of the work injury, which entitles claimant to receive 400 weeks of permanent partial disability (PPD) benefits commencing on February 11, 2017. The deputy commissioner found claimant failed to carry her burden of proof that she is permanently and totally disabled under either the traditional industrial disability analysis or under the odd-lot analysis. The deputy commissioner found claimant is entitled to receive \$3,611.00 in penalty benefits for unreasonable delays in the payment of weekly benefits paid on February 6, 2015, March 2, 2015, April 27, 2015, June 22, 2015, February 2, 2016, February 17, 2016, February 22, 2016, March 15, 2016, and March 31, 2016. The deputy commissioner found claimant is entitled to payment/reimbursement by defendants for all past requested causally-related medical expenses and medical mileage itemized in Exhibit 9. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$908.53.

Defendants assert on appeal that the deputy commissioner erred in finding claimant is entitled to receive healing period benefits. Defendants assert the deputy commissioner erred in finding claimant sustained a permanent sequela mental injury as a result of the work injury. Defendants assert the deputy commissioner erred in failing to find claimant's permanent disability resulting from the work injury is limited to scheduled member disability confined to her bilateral hands. Defendants assert the deputy commissioner erred in finding claimant sustained industrial disability as a result of the work injury. In the alternative, defendants assert if it is found on appeal that claimant sustained industrial disability, it should be found that the 80 percent industrial disability award is excessive and it should be reduced substantially. Defendants assert the deputy commissioner erred in finding claimant is entitled to receive penalty benefits. Defendants assert the deputy commissioner erred in finding claimant is entitled to payment/reimbursement by defendants for the past requested medical expenses and medical mileage itemized in Exhibit 9. Defendants assert the deputy commissioner erred in ordering defendants to pay claimant's costs of the arbitration proceeding.

Claimant asserts on cross-appeal that the deputy commissioner erred in failing to find claimant is permanently and totally disabled under both the traditional industrial disability analysis and under the odd-lot analysis. Claimant asserts the deputy commissioner erred in failing to award additional penalty benefits for other alleged unreasonable delays in the payment of weekly benefits.

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 December 21, 2017, 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 sustained a permanent sequela mental injury as a result of the work injury. I affirm the deputy commissioner's finding that claimant is entitled to receive healing period benefits for the work injury from January 12, 2015, through February 10, 2017. I affirm the deputy commissioner's finding that claimant failed to carry her burden of proof that she is permanently and totally disabled under either the traditional industrial disability analysis or under the odd-lot analysis. I affirm the deputy commissioner's finding that claimant sustained 80 percent industrial disability as a result of the work injury. I affirm the deputy commissioner's finding that claimant is entitled to receive \$3,611.00 in penalty benefits

for unreasonable delays in the payment of weekly benefits paid on February 6, 2015, March 2, 2015, April 27, 2015, June 22, 2015, February 2, 2016, February 17, 2016, February 22, 2016, March 15, 2016, and March 31, 2016. I affirm the deputy commissioner's finding that claimant is not entitled to receive additional penalty benefits for other alleged unreasonable delays in the payment of weekly benefits. I affirm the deputy commissioner's finding that claimant is entitled to payment/reimbursement by defendants for all requested causally-related past medical expenses and past medical mileage itemized in Exhibit 9. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$908.53. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

### ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on December 21, 2017, is affirmed in its entirety.

Defendants shall pay claimant healing period benefits, from January 12, 2015, through February 10, 2017, at the stipulated weekly rate of three hundred twenty-eight and 34/100 dollars (\$328.34).

Defendants shall pay claimant four hundred (400) weeks of permanent partial disability benefits, at the stipulated weekly rate of three hundred twenty-eight and 34/100 dollars (\$328.34), commencing on February 11, 2017.

Defendants shall receive a credit for all benefits previously paid.


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 pay/reimburse all causally related past medical bills and past medical mileage itemized in Exhibit 9.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of \$908.53, and the parties shall split 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 12<sup>th</sup> day of September, 2018.

  
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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

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