

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JOYCE MYERS,

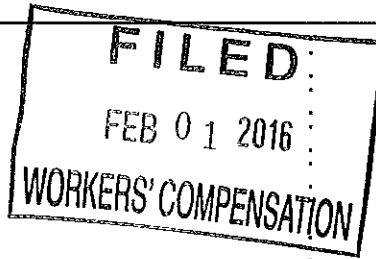
Claimant,

vs.

IOWA STATE UNIVERSITY,

STATE OF IOWA,

Self-Insured,
Employer,
Defendant.



File No. 5047955

ORDER NUNC PRO TUNC

On January 14, 2016, defendants filed a motion for order nunc pro tunc on the basis that the stipulated benefit rate was in error. There is no resistance on file. The parties stipulated that claimant's gross earnings were \$653.41. At the time of her injury, claimant was single and entitled to one exemption.

According to the rate book, the claimant's benefit rate should be \$403.42. The parties erroneously stipulated to a benefit rate of \$403.52. Entries made and signed may be altered only to correct an evident mistake.

It is not the purpose of nunc pro tunc to correct a mistake or misunderstanding of litigants. It is not for the purpose of correcting judicial thinking, a judicial conclusion or mistake of law. These well-established rules are succinctly stated in General Mills, Inc. v. Prall, 244 Iowa 218, 225, 56 N.W.2d 596, 600, as follows:

The function of a nunc pro tunc order is not to modify or correct a judgment but to make the record show truthfully what judgment was actually rendered—'not to make an order now for then, but to enter now for then an order previously made.'
[Citations]

Headley v. Headley, 172 N.W.2d 104, 108 (Iowa 1969).

Given that the rate book sets the rate, a correction of the benefit rate is appropriate.

THEREFORE IT IS ORDERED the arbitration decision is revised to read as follows:

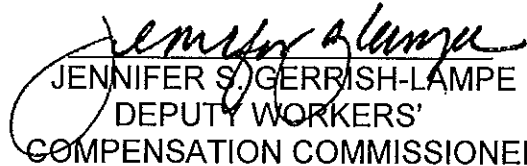
The stipulations shall read:

They further agree claimant's gross earnings at the time of the injury were \$653.41 per week, that she was single and entitled to 1 exemption. Based on those foregoing numbers, the parties believe the weekly benefit rate to be \$403.42.

The order shall read:

That defendant is to pay unto claimant one hundred twenty-five (125) weeks of permanent partial disability benefits at the rate of four hundred three and 42/100 dollars (\$403.42) per week from December 4, 2014.

Signed and filed this 1st day of February, 2016.


JENNIFER S. GERRISH-LAMPE
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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JGL/kjw