

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

GUI FANG LIU,
Claimant,

vs.

HY-VEE, INC.,
Employer,
Self-Insured,
Defendant.

File No. 5055451

APPEAL

DECISION

Head Note Nos: 1803; 2907; 4000.02;
5-9998

FILED

AUG 30 2018

WORKERS' COMPENSATION

Claimant Gui Fang Liu appeals from an arbitration decision filed on March 21, 2017. Defendant, Hy-Vee, Inc., self-insured employer, responds to the appeal. The case was heard on December 9, 2016, and it was considered fully submitted in front of the deputy workers' compensation commissioner on January 6, 2017.

The deputy commissioner found claimant sustained 25 percent industrial disability, which entitles claimant to receive 125 weeks of permanent partial disability (PPD) benefits commencing on February 6, 2015, as a result of the stipulated right shoulder injury which arose out of and in the course of claimant's employment with defendant on November 3, 2014. The deputy commissioner found claimant is not entitled to receive penalty benefits for the work injury. The deputy commissioner ordered defendant to pay claimant's costs of the arbitration proceeding.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant sustained 25 percent industrial disability as a result of the work injury. Claimant asserts the award for industrial disability should be increased substantially or, in the alternative, claimant asserts she should be awarded permanent total disability benefits. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to receive penalty benefits for the work injury.

Defendant asserts on appeal that the arbitration decision should be affirmed in its entirety.

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 March 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 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 25 percent industrial disability as a result of the work injury. I affirm the deputy commissioner's finding that claimant is not entitled to receive penalty benefits for the work injury. I affirm the deputy commissioner's order that defendant pay claimant's costs of the arbitration proceeding. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

ORDER

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

Defendant shall pay claimant one hundred twenty-five (125) weeks of permanent partial disability benefits at the weekly rate of five hundred forty-five and 22/100 dollars (\$545.22) per week commencing on February 6, 2015.

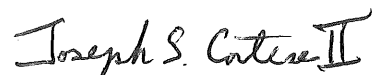
Defendant shall receive a credit for all benefits paid to date.

Defendant 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).

Pursuant to rule 876 IAC 4.33, defendant shall pay claimant's costs of the arbitration proceeding, and claimant shall pay the costs of the appeal, including the cost of the hearing transcript.

Pursuant to rule 876 IAC 3.1(2), defendant shall file subsequent reports of injury as required by this agency.

Signed and filed on this 30th day of August, 2018.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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