

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

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RICKEY TREMMEL,

Claimant,

vs.

KEOKUK COUNTY HEALTH  
CENTER,

Employer,

and

NATIONAL UNION FIRE INS. CO. OF  
PA,

Insurance Carrier,  
Defendants.

File No. 5065163

A P P E A L

D E C I S I O N

Head Notes: 1402.4; 1803; 2907; 5-9998

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Defendants Keokuk County Health Center, employer, and its insurance carrier, National Union Fire Insurance Company of Pennsylvania, appeal from an arbitration decision filed on December 20, 2018. Claimant Ricky Tremmel cross-appeals. The case was heard on April 4, 2018, and it was considered fully submitted in front of the deputy workers' compensation commissioner on May 5, 2018.

The deputy commissioner found claimant sustained 45 percent industrial disability as a result of the stipulated work injury which occurred on September 17, 2015, which entitles claimant to receive 225 weeks of permanent partial disability benefits commencing on December 23, 2015. The deputy commissioner also ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$100.00.

Defendants assert on appeal that the deputy commissioner erred in awarding claimant 45 percent industrial disability. Defendants assert the award, for industrial disability should either be reduced substantially or it should be reversed entirely.

Claimant asserts on cross-appeal that the minimum award which claimant is entitled to receive is 45 percent industrial disability, and claimant asserts the evidence supports a higher award.

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 20, 2018, 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 45 percent industrial disability as a result of the work injury.

Defendants on appeal also challenge claimant's credibility. I give considerable deference to findings of fact which are impacted by the credibility findings, expressly or impliedly made, of the deputy commissioner who presided at the arbitration hearing. In this case, the deputy commissioner did not raise specific concerns regarding claimant's credibility, and impliedly found claimant to be credible in reaching his decision. I find the deputy commissioner correctly assessed claimant's credibility in this matter. I find nothing in the record in this matter which would cause me to reverse the deputy commissioner's implied finding that claimant was credible.

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 20, 2018, is affirmed in its entirety.

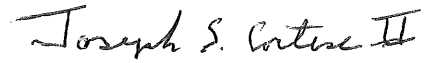
Defendants shall pay claimant two hundred twenty-five (225) weeks of permanent partial disability benefits at the weekly rate of four hundred seven and 10/100 dollars (\$407.10) commencing December 23, 2015

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).

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of one hundred and no/100 dollars (\$100.00), 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 13<sup>th</sup> day of March, 2020.



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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

The parties have been served as follows:

Pressley Henningsen      Via WCES

Laura Schultes              Via WCES

Jean Z. Dickson              Via WCES