

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

ERIC COTTON,

Claimant,

vs.

ANNETT HOLDINGS, INC., d/b/a
TMC TRANSPORTATION,

Employer,
Self-Insured,
Defendant.

File No. 5064087

A P P E A L

D E C I S I O N

Head Notes: 1402.20; 1402.40; 1803;
1803.1; 2206; 3001; 5-9998

Defendant Annett Holdings, Inc., d/b/a TMC Transportation, self-insured employer, appeals from an arbitration decision filed on May 9, 2019. Claimant Eric Cotton cross-appeals. The case was heard on March 13, 2019, and it was considered fully submitted in front of the deputy workers' compensation commissioner on April 10, 2019.

The deputy commissioner found claimant carried his burden of proof to establish he sustained permanent disability of his low back as a sequela of his stipulated work-related injury which occurred on February 7, 2017. The deputy commissioner found claimant sustained 25 percent industrial disability as a result of the work injury, which entitles claimant to receive 125 weeks of permanent partial disability benefits commencing on March 10, 2018. The deputy commissioner found claimant's weekly benefit rate for the work injury is \$574.45.

On appeal, defendants assert claimant's injury is limited to his right lower extremity. In the alternative, defendants assert claimant's industrial disability is less than 25 percent.

On cross-appeal, claimant asserts his industrial disability is greater than 25 percent.

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 May 9, 2019, 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 satisfied his burden of proof to establish he sustained permanent disability of his low back as a sequela of the work injury. I affirm the deputy commissioner's finding that claimant sustained a 25 percent industrial disability. I affirm the deputy commissioner's finding that claimant's weekly benefit rate for the work injury is \$574.45.

While I performed a de novo review, I give considerable deference to findings of fact that are impacted by the credibility findings, expressly or impliedly made, by the deputy commissioner who presided at the arbitration hearing. The deputy commissioner found claimant in this matter to be credible. I find the deputy commissioner correctly assessed claimant's credibility. I find nothing in the record in this matter which would cause me to reverse the deputy commissioner's credibility findings.

I affirm the deputy commissioner's findings, conclusions and analysis regarding the above issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on May 9, 2019, is affirmed in its entirety.

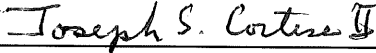
Defendant shall pay claimant 125 weeks of permanent partial disability benefits at the weekly rate of \$574.45, commencing on the stipulated commencement date of March 10, 2018.

The employer and insurance carrier 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, the parties shall split 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 27th day of April, 2020.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Corey J. L. Walker Via WCES

Sasha L. Monthei Via WCES