

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

APRIL ARLENE CLARK,

Claimant,

vs.

WINNEBAGO INDUSTRIES, INC.,

Employer,
Self-Insured,
Defendant.

File No. 5063138

A P P E A L

D E C I S I O N

Headnotes: 1402.40; 1803; 2501; 2701;
3003; 4000; 5-9998

Defendant Winnebago Industries, Inc., self-insured employer, appeals from an arbitration decision filed on December 21, 2017. Claimant April Arlene Clark cross-appeals. The case was heard on September 18, 2017, and it was considered fully submitted in front of the deputy workers' compensation commissioner on October 9, 2017.

The deputy commissioner found claimant carried her burden of proof that she sustained permanent disability as a result of the stipulated right upper extremity injury which arose out of and in the course of claimant's employment with defendant on July 8, 2016. The deputy commissioner found claimant sustained ten percent permanent scheduled member functional disability of her right upper extremity, which entitles claimant to receive 25 weeks of permanent partial disability benefits commencing on the stipulated commencement date of July 19, 2016, as a result of the work injury. The deputy commissioner found claimant's correct classification for calculation of her weekly benefit rate is married with three exemptions, with the result that claimant's correct weekly benefit rate is \$372.30. The deputy commissioner found claimant failed to carry her burden of proof that she is entitled to receive penalty benefits from defendants for an alleged unreasonable failure by defendant to pay weekly benefits. The deputy commissioner found claimant is entitled to alternate medical care in the form of an evaluation by a TFCC specialist at the Mayo Clinic pursuant to the recommendation of Sunil Bansal, M.D., claimant's expert witness. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$107.61

Defendant asserts on appeal that the deputy commissioner erred in finding claimant carried her burden of proof that she sustained permanent disability as a result of the July 8, 2016, work injury. Defendant asserts the deputy commissioner erred in awarding claimant any permanent disability for the work injury. Defendant asserts the deputy commissioner erred in finding claimant is married instead of single and in failing

to find claimant's correct weekly benefit rate is \$363.86. Defendant asserts the deputy commissioner erred in finding claimant is entitled to alternate medical care.

Claimant asserts on cross-appeal that the deputy commissioner erred in failing to find claimant sustained 15 percent permanent scheduled member functional disability of her right upper extremity as a result of the work injury. Claimant asserts the deputy commissioner erred in finding claimant failed to prove she is entitled to receive penalty benefits from defendants.

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 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 carried her burden of proof that she sustained permanent disability as a result of the July 8, 2016, work injury. I affirm the deputy commissioner's finding that claimant sustained ten percent permanent scheduled member functional disability of her right upper extremity as a result of the work injury. I affirm the deputy commissioner's finding that claimant's correct classification for calculation of her weekly benefit rate is married with three exemptions, and I affirm the deputy commissioner's finding that claimant's correct weekly benefit rate is \$372.30. I affirm the deputy commissioner's finding that claimant failed to carry her burden of proof that she is entitled to receive penalty benefits. I affirm the deputy commissioner's finding that claimant is entitled to alternate medical care in the form of an evaluation by a TFCC specialist at the Mayo Clinic pursuant to Dr. Bansal's recommendation. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$107.61.

I affirm the deputy commissioner's findings, conclusions and analysis regarding all of those issues.

ORDER

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

Defendant shall pay claimant twenty-five (25) weeks of permanent partial disability benefits at the weekly rate of three hundred seventy-two and 30/100 dollars (\$372.30), commencing on the stipulated date of July 19, 2016.

Defendant is entitled to a credit for all benefits previously paid.

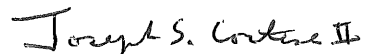
Defendants shall pay accrued weekly benefits in a lump sum together with interest at the rate of ten percent for all weekly benefits payable and not paid when due which accrued before July 1, 2017, and all interest on past due weekly compensation benefits accruing on or after July 1, 2017, shall be payable 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).

Defendant shall provide claimant with alternate medical care in the form of an evaluation by a TFCC specialist at the Mayo Clinic pursuant to Dr. Bansal's recommendation.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of one hundred seven and 61/100 dollars (\$107.61), 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 31st day of July, 2019.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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