

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

KELLY E. WALKER,

Claimant,

vs.

C.W. SUTER SERVICES,

Employer,

And

LEMARS INSURANCE COMPANY,

Insurance Carrier,

Defendants.

File No. 5047939

A P P E A L

D E C I S I O N

FILED

MAY 18 2017

WORKERS' COMPENSATION

Head Note Nos: 1800, 1803

Defendants C.W. Suter Services, employer, and its insurer, LeMars Insurance Company, appeal from an arbitration decision filed on October 28, 2015. Claimant Kelly E. Walker responds to the appeal. The case was heard on August 12, 2015, and it was considered fully submitted in front of the deputy workers' compensation commissioner on September 30, 2015.

In the arbitration decision, the deputy commissioner found the stipulated work injury which occurred on March 5, 2014, caused claimant to sustain 21 percent functional impairment of the right lower extremity, which entitles claimant to 46.2 weeks of permanent partial disability (PPD) benefits commencing on July 21, 2014. The deputy commissioner found defendants are entitled to a credit for 4.4 weeks of PPD benefits paid to claimant prior to the arbitration hearing. 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 anything more than the 4.4 weeks of PPD benefits paid prior to the hearing.

Claimant 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.

Having performed a de novo review of the evidentiary record and the detailed arguments of the parties, 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 October 28, 2015, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided sufficient analysis 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 the March 5, 2014, work injury caused claimant to sustain 21 percent functional impairment of the right lower extremity, which entitles claimant to 46.2 weeks of PPD benefits commencing on July 21, 2014. I affirm the deputy commissioner's finding that defendants are entitled to a credit for 4.4 weeks of PPD benefits paid to claimant prior to the arbitration hearing. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$100.00. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on October 28, 2015, is affirmed in its entirety.

Defendant shall pay claimant 46.2 weeks of permanent partial disability benefits commencing July 21, 2014, payable at the stipulated weekly benefit rate of seven hundred four and 16/100 dollars (\$704.16) per week.

Defendants shall pay accrued weekly benefits in a lump sum together with interest pursuant to Iowa Code section 85.30.

Defendants shall receive a credit for all benefits previously paid.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of \$100.00, and defendants shall pay 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 this 18th day of May, 2017.

Joseph S. Cortese II

JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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