

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

ZECHARIAH SCOTT,

Claimant,

vs.

QUALITY MANUFACTURING CORPORATION,

Employer,

and

EMCASCO INSURANCE COMPANY,

Insurance Carrier,
Defendants.

File No. 5064245

A P P E A L

D E C I S I O N

Head Notes: 1402.20; 1402.40; 1801.1
1803; 1803.1; 2209; 2501.
2907; 3001; 3002; 5-9998

Defendants Quality Manufacturing Corporation, employer, and its insurer, EMCASCO Insurance Company, appeal from an arbitration decision filed on May 22, 2020. Claimant Zechariah Scott cross-appeals from the arbitration decision and appeals from a ruling on rehearing filed on June 19, 2020. The case was considered fully submitted in front of the deputy workers' compensation commissioner on July 29, 2019.

In the arbitration decision, the deputy commissioner found claimant carried his burden of proof to establish he sustained a work-related right shoulder injury on June 29, 2017. The deputy commissioner found claimant reached maximum medical improvement (MMI) for the work injury on May 14, 2018. The deputy commissioner found claimant is entitled to receive temporary partial disability benefits from the date he returned to work in March 2018 through May 14, 2018. The deputy commissioner found claimant sustained 20 percent industrial disability as a result of the work injury, which entitles claimant to receive 100 weeks of permanent partial disability benefits commencing on May 15, 2018. The deputy commissioner found claimant's gross average weekly wage for the work injury is \$1,059.04, with the result that claimant's weekly benefit rate for the injury, classification married with two exemptions, is \$667.91. The deputy commissioner found claimant is entitled to payment by defendants for all of the requested past medical expenses itemized in Claimant's Exhibit 7. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding.

In the ruling on motion for rehearing, the deputy commissioner modified the findings regarding claimant's gross average weekly wage and weekly benefit rate and found claimant's correct gross average weekly wage is \$1,014.95, and claimant's correct weekly benefit rate is \$642.49. The deputy commissioner clarified that claimant is entitled to receive temporary partial disability benefits of two-thirds of the difference between his gross average weekly wage of \$1,014.95 and his actual weekly light duty earnings from March 4, 2018, through May 14, 2018.

Defendants assert on appeal that the deputy commissioner erred in finding the injury date in this matter is June 29, 2017. Defendants assert it should be found on appeal that the correct injury date is either sometime in November 2017 or February 23, 2018. In the alternative, defendants assert if it is found on appeal that the correct injury date is June 29, 2017, it should also be found that the injury caused only temporary disability and did not cause permanent disability. In the alternative, defendants assert if it is found on appeal that claimant sustained a work-related injury on June 29, 2017, it should also be found that claimant sustained another work-related injury in November 2017 which is the cause of any permanent disability. Defendants assert that regardless of what the correct injury date is, it should be found on appeal that claimant did not sustain any industrial disability as a result of the injury. In the alternative, defendants assert that if claimant did sustain any industrial disability, it should be found on appeal that the industrial disability was caused by the alleged November 2017 injury.

Claimant asserts on cross-appeal from the arbitration decision that the deputy commissioner erred in failing to find claimant is entitled to receive healing period benefits or temporary partial disability benefits from March 4, 2018, through August 23, 2018. Claimant asserts on appeal from the ruling on motion for rehearing that the deputy commissioner erred in finding claimant's gross average weekly wage for the injury is \$1,014.95 rather than \$1,059.04, and in finding claimant's weekly benefit rate for the injury is \$642.49 rather than \$667.91.

Those portions of the proposed agency decision pertaining to issues not raised on appeal are adopted as a part of this appeal decision.

I performed a de novo review of the evidentiary record and the detailed arguments of the parties. Pursuant to Iowa Code sections 17A.15 and 86.24, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed on May 22, 2020, and those portions of the ruling on rehearing filed on June 19, 2020, 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 claimant carried his burden of proof to establish he sustained a work-related right shoulder injury on June 29, 2017. I affirm the deputy commissioner's finding that claimant reached MMI for the work injury

on May 14, 2018. I affirm the deputy commissioner's finding claimant is entitled to receive temporary partial disability benefits for the work injury from March 4, 2018, through May 14, 2018. I affirm the deputy commissioner's finding that claimant sustained 20 percent industrial disability as a result of the work injury. I affirm the deputy commissioner's finding that claimant's gross average weekly wage for the work injury is \$1,014.95, with the result that claimant's weekly benefit rate for the injury, classification married with two exemptions, is \$642.49. I affirm the deputy commissioner's finding that claimant is entitled to payment by defendants for all of the requested past medical expenses itemized in Claimant's Exhibit 7. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding.

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 May 22, 2020, and the ruling on rehearing filed on June 19, 2020, are affirmed in their entirety.

Defendants shall pay claimant temporary partial disability benefits of two-thirds of the difference between his gross average weekly wage of \$1,014.95 and his actual weekly light duty earnings from March 4, 2018, through May 14, 2018.

Defendants shall pay claimant one hundred (100) weeks of permanent partial disability benefits at the weekly rate of six hundred forty-two and 49/100 dollars (\$642.49) per week commencing on May 15, 2018.

Defendants shall receive 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).

Defendants shall pay all of the medical expenses itemized in Claimant's Exhibit 7.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding, 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 26th day of January, 2021.

Joseph S. Cortese II

JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Nick Platt (via WCES)

David Brian Scieszinski (via WCES)