

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

GUADALUPE MUNIZ,	:		FILED
Claimant,	:	File No. 5043492	FEB 25 2016
vs.	:		WORKERS' COMPENSATION
TYSON FRESH MEATS, INC.,	:		
Employer,	:		
Self-Insured,	:		
Defendant.	:		
	:	Head Note Nos.: 1100; 1803	

Defendant Tyson Fresh Meats, Inc., self-insured employer, appeals from an arbitration decision filed on January 14, 2015. The case was heard on May 8, 2014, and it was considered fully submitted on June 17, 2014, in front of Deputy Workers' Compensation Commissioner Michelle McGovern. On November 17, 2014, this matter was delegated to Deputy Workers' Compensation Commissioner Jennifer S. Gerrish-Lampe, who then issued the arbitration decision on January 14, 2015.

Deputy Commissioner Gerrish-Lampe found that claimant carried his burden of proof that he sustained permanent disability as a result of his work-related injury of January 19, 2012. The deputy commissioner awarded claimant 40 percent industrial disability, 200 weeks of permanent partial disability benefits from January 19, 2012. The deputy commissioner also determined defendant is entitled to a credit for weekly benefits previously paid. The deputy commissioner also ordered defendant to pay costs.

Defendant asserts on appeal that the deputy commissioner erred in finding that claimant carried his burden of proof that he sustained permanent disability as a result of his work-related injury of January 19, 2012. Defendant also asserts that the deputy commissioner erred in awarding 40 percent industrial disability.

Claimant asserts on appeal that the arbitration decision should be affirmed in its entirety.

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 86.24 and 17A.5, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed on January 14, 2015, which relate to issues properly raised on intra-agency appeal with the following analysis:

The deputy commissioner provided sufficient 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 permanent disability as a result of his work-related injury of January 19, 2012. I affirm the deputy commissioner's award of 40 percent industrial disability. I affirm the deputy commissioner's findings, conclusions and analysis regarding these issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision of January 14, 2015, is AFFIRMED in its entirety.

Defendants shall pay claimant two hundred (200) weeks of permanent partial disability benefits at the rate of four hundred forty-four and 99/100 dollars (\$444.99) per week from January 19, 2012.

Defendants shall pay accrued weekly benefits in a lump sum.

Defendants shall pay interest on unpaid weekly benefits awarded herein as set forth in Iowa Code section 85.30.

Defendants are entitled to a credit for weekly benefits previously paid.

Defendants shall pay the costs awarded in the arbitration decision and defendants shall pay the costs of this appeal, including the cost of the hearing transcript, pursuant to rule 876 IAC 4.33.

Signed and filed this 25th day of February, 2016.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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