

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

ARON HESER,

Claimant,

vs.

STAR APPLIANCES, INC.,

Employer,

EMC INSURANCE COMPANIES,

Insurance Carrier,
Defendants.

File No. 1661411.01

A P P E A L

D E C I S I O N

Head Notes: 1402.20; 1402.40; 1802; 1803;
2501; 2502; 2907; 4000;
5-9998

Defendants Star Appliances, Inc., employer, and its insurer, EMC Insurance Companies, appeal from an arbitration decision filed on March 7, 2022. Claimant Aron Heser cross-appeals. The case was heard on August 24, 2021, and it was considered fully submitted in front of the deputy workers' compensation commissioner on November 12, 2021.

In the arbitration decision, the deputy commissioner found claimant met his burden of proof to establish he sustained permanent impairment of his thoracic spine, and a permanent adjustment disorder with depressed mood, caused by the stipulated March 4, 2019, work injury. The deputy commissioner found claimant sustained 40 percent industrial disability as a result of the work injury, which entitles claimant to receive 200 weeks of permanent partial disability benefits commencing on December 16, 2020. The deputy commissioner found claimant is entitled to receive healing period benefits from March 5, 2019, through December 15, 2020. The deputy commissioner found defendants are responsible for the medical charges itemized in Exhibit 8. The deputy commissioner found claimant is not entitled to receive penalty benefits. The deputy commissioner found that pursuant to Iowa Code section 85.39, claimant is entitled to reimbursement from defendants in the amount of \$3,250.00 for the cost of the independent medical evaluation (IME) of claimant performed by David Segal, M.D. The deputy commissioner found claimant is not entitled to reimbursement from defendants for the cost of the reports prepared by Robert Jones, Ph.D. and by Adam J. Woods, M.D. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$113.80.

Defendants assert on appeal that the deputy commissioner erred in finding claimant sustained 40 percent industrial disability, and in finding the commencement date for permanent partial disability benefits is December 16, 2020. Defendants assert

the deputy commissioner erred in finding claimant is entitled to healing period benefits beyond October 15, 2019. Defendants assert the deputy commissioner erred in finding defendants are responsible for the medical charges itemized in Exhibit 8.

Claimant asserts on cross-appeal that the deputy commissioner erred in finding claimant is not entitled to receive penalty benefits. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to reimbursement from defendants for the cost of the reports prepared by Dr. Jones and by Dr. Woods. Claimant asserts the remainder of the arbitration decision should be affirmed.

Those portions of the proposed arbitration 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 March 7, 2022, 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 proved he sustained permanent impairment of his thoracic spine, and a permanent adjustment disorder with depressed mood, caused by the work injury. I affirm the deputy commissioner's finding that claimant sustained 40 percent industrial disability as a result of the work injury, which entitles claimant to receive 200 weeks of permanent partial disability benefits commencing on December 16, 2020. I affirm the deputy commissioner's finding that claimant is entitled to receive healing period benefits from March 5, 2019, through December 15, 2020. I affirm the deputy commissioner's finding that defendants are responsible for the medical expenses itemized in Exhibit 8. I affirm the deputy commissioner's finding that claimant is not entitled to receive penalty benefits. I affirm the deputy commissioner's finding that pursuant to Iowa Code section 85.39 claimant is entitled to reimbursement from defendants for the cost of Dr. Segal's IME. I affirm the deputy commissioner's finding that claimant is not entitled to reimbursement from defendants for the cost of the reports prepared by Dr. Jones and by Dr. Woods. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$113.80.

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

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on March 7, 2022, is affirmed in its entirety.

Defendants shall pay claimant healing period benefits from March 5, 2019, through December 15, 2020, at the stipulated weekly rate of four hundred sixty-three and 53/100 dollars (\$463.53).

Defendants shall pay claimant 200 weeks of permanent partial disability benefits at the stipulated weekly rate of four hundred sixty-three and 53/100 dollars (\$463.53), commencing on December 16, 2020.

Defendants shall receive credit for all benefits previously paid.

Defendants shall pay accrued weekly benefits in a lump sum together with interest 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.

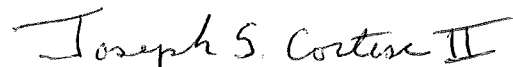
Defendants are responsible for payment, reimbursement, and to hold claimant harmless for the medical charges itemized in Exhibit 8.

Pursuant to Iowa Code section 85.39, defendants shall reimburse claimant in the amount of three thousand two hundred fifty and 00/100 dollars (\$3,250.00) for the cost of Dr. Segal's IME.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of one hundred thirteen and 80/100 dollars (\$113.80), and the parties shall split the cost 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 10th day of August, 2022



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Thomas Wertz (via WCES)

Matthew Novak (via WCES)