

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

FILED

AUG 16 2016

WORKERS' COMPENSATION

IZET TAHIROVIC,

Claimant,

vs.

METOKOTE CORPORATION,

Employer,

and

AIG,

Insurance Carrier,
Defendants.

File No. 5039492

A P P E A L

D E C I S I O N

Head Note Nos.: 1402.40; 1402.60;
1802; 1803; 2501; 2701; 2907
4100

Defendants Metokote Corporation, employer, and its insurer, AIG, appeal from an arbitration decision filed on April 1, 2015. Claimant Izet Tahirovic cross-appeals. The case was heard on January 26, 2015, and it was considered fully submitted in front of the deputy workers' compensation commissioner on March 5, 2015.

The deputy commissioner found claimant carried his burden of proof that he sustained temporary disability and permanent disability to his left shoulder resulting from an injury arising out of and in the course of his employment on July 5, 2011. The deputy commissioner awarded claimant healing period benefits from February 14, 2012, through May 19, 2014. The deputy commissioner awarded claimant 60 percent industrial disability, which entitles claimant to 300 weeks of permanent partial disability (PPD) benefits. The deputy commissioner ordered defendants to provide ongoing medical care, consisting of pain medication management, recommended by Dr. Manshadi in his report, Exhibit 33, at page 24. The deputy commissioner ordered defendants to pay directly, or reimburse claimant, or otherwise hold claimant harmless, for the past medical expenses itemized in Exhibits 27 through 31. The deputy commissioner ordered defendants to reimburse claimant for the medical mileage expense summarized in Exhibit 32. The deputy commissioner ordered defendants to reimburse claimant's costs totaling \$1,133.87.

Defendants assert on appeal that the deputy commissioner erred in finding claimant carried his burden of proof that he sustained temporary disability and permanent disability to his left shoulder resulting from the July 5, 2011, work injury. Defendants assert the deputy commissioner erred in awarding healing period benefits and industrial disability benefits. Defendants assert the deputy commissioner erred in

awarding ongoing medical care, past medical expenses, medical mileage expense and claimant's costs.

Claimant asserts on cross-appeal that the deputy commissioner erred in failing to award claimant permanent total disability benefits or odd-lot permanent total disability benefits. In the alternative, claimant asserts the award of 60 percent industrial disability should be affirmed. Claimant asserts the award of healing period benefits, ongoing medical care, past medical mileage expense and claimant's costs should be affirmed.

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 March 5, 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 claimant sustained temporary disability and permanent disability to his left shoulder resulting from the work injury of July 5, 2011. I affirm the deputy commissioner's award of healing period benefits from February 14, 2012, through May 19, 2014. I affirm the deputy commissioner's award of 60 percent industrial disability, which entitles claimant to 300 weeks of PPD benefits. I affirm the deputy commissioner's award of ongoing medical care, consisting of pain medication management, recommended by Dr. Manshadi in his report, Exhibit 33, at page 24. I affirm the deputy commissioner's award of past medical expenses itemized in Exhibits 27 through 31. I affirm the deputy commissioner's award of medical mileage expense summarized in Exhibit 32. I affirm the deputy commissioner's award of claimant's costs totaling \$1,133.87. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision of April 1, 2015, is affirmed in its entirety.

Defendants shall pay claimant healing period benefits from February 14, 2012, through May 19, 2014, at the weekly rate of three hundred fifty-six and 58/100 dollars (\$356.58).

Defendants shall pay claimant three hundred (300) weeks of permanent partial disability benefits commencing on May 20, 2014, at the weekly rate of three hundred fifty-six and 58/100 dollars (\$356.58).

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

Defendants shall pay directly, reimburse claimant for any out-of-pocket expenses, or otherwise satisfy and hold claimant harmless for the past medical expenses itemized in Exhibits 27 through 31.

Defendants shall provide the medical care, consisting of pain medication management, recommended by Dr. Manshadi in his report, Exhibit 33, at page 24.

Defendants shall reimburse claimant's medical mileage expenses as summarized in Exhibit 32.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of \$1,133.87, and the parties shall split the costs of the appeal, including the cost of the hearing transcript.

Defendants shall file subsequent reports of injury (SROI) as required by this agency pursuant to rules 876 IAC 3.1(2), and 876 IAC 11.7.

Signed and filed this 16th day of August, 2016.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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