

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

RICKY MINCKS,

Claimant,

vs.

HOOVESTOL, INC.,

Employer,

and

ACE AMERICAN INSURANCE CO.,

Insurance Carrier,
Defendants.

File No. 20009551.01

ORDER FOR NUNC PRO TUNC

The arbitration decision in this matter was filed on August 11, 2023. On August 23, 2023, claimant filed an application for rehearing. On August 24, 2023, defendants filed a response. The filings are considered.

The claimant seeks rehearing because they correctly believe that the arbitration decision contains a scrivener's error. On August 11, 2023, the undersigned issued an arbitration decision in this matter. The decision states that the "weekly benefits shall be paid at the stipulated rate of seven hundred sixty and 75/100 dollars (\$764.75)." (Arb. Dec. p. 14) The decision inadvertently left out the word "four" following the word "sixty."

The phrase, "nunc pro tunc" means "now for then." See: Black's Law Dictionary, page 1218 (Revised 4th Edition 1968). The definition in Black's Law Dictionary further provides: "A phrase applied to acts allowed to be done after the time when they should be done, with a retroactive effect, i.e., with the same effect as if regularly done." Black's at 1218. A nunc pro tunc order "is not for the purpose of correcting judicial thinking, a judicial conclusion, or a mistake of law." Headley v. Headley, 172 N.W.2d 104, 108 (Iowa 1969). The nunc pro tunc order can be employed to correct obvious errors or to make an order conform to the judge's original intent. Graber v. Dist. Court for Washington Cty., 410 N.W.2d 224, 229 (Iowa 1987). Brinson v. Spee Dee Delivery Service, No. 8-754/06-2074 (Iowa App. 11/13/2008) (Iowa App., 2008).

I find that the undersigned made a scrivener's error when I neglected to include the word "four" after the word "sixty" with regard to the stipulated weekly workers' compensation rate. Therefore, I conclude that an Order Nunc Pro Tunc is more

appropriate than a rehearing. Therefore, the motion for rehearing is denied. However, an Order Nunc Pro Tunc is appropriate.

WHEREFORE, the Order portion of the arbitration decision dated August 11, 2023 is hereby amended to state that "weekly benefits shall be paid at the stipulated rate of seven hundred sixty-four and 75/100 dollars (\$764.75)." (Arb. Dec. p. 14). Attached is an amended and substituted page 14 of the arbitration decision.

Signed and filed this 25th day of August, 2023.

A handwritten signature in black ink, appearing to read 'Erin Q. Pals', is written over a horizontal line.

ERIN Q. PALS
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Jon Hoffmann (via WCES)

John Cutler (via WCES)

Thus, defendants are assessed costs in the amount of one hundred three and no/100 dollars (\$103.00).

ORDER

THEREFORE, IT IS ORDERED:

All weekly benefits shall be paid at the stipulated rate of seven hundred sixty-four and 75/100 dollars (\$764.75).

Defendants shall pay healing period benefits from December 7, 2020 to March 9, 2021.

Defendants shall pay 16 weeks of permanent partial disability benefits commencing on the stipulated commencement date of March 9, 2021.

Defendants shall be entitled to credit for all weekly benefits paid to date.

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 shall reimburse claimant for the independent medical examination in the amount of three thousand five hundred ninety-nine and no/100 dollars (\$3,599.00). Defendants shall reimburse claimant costs as set forth above.

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 11th day of August, 2023.



ERIN Q. PALS
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Clarissa Rietveld (via WCES)

John S. Culter (via WCES)