

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

MONICA TOLEDO,

Claimant,

vs.

AIMBRIDGE HOSPITALITY
HOLDINGS, LLC,

Employer,

and

ZURICH AMERICAN INSURANCE
COMPANY,

Insurance Carrier,
Defendants.

File No. 5065720

A P P E A L

D E C I S I O N

Head Notes: 1402.40; 1802; 1803; 1803.1;
2907; 5-9998

Defendants Aimbridge Hospitality Holdings, LLC, employer, and its insurer, Zurich American Insurance Company, appeal from an arbitration decision filed on July 18, 2019. Claimant Monica Toledo responds to the appeal. The case was heard on May 31, 2018, and it was considered fully submitted in front of the deputy workers' compensation commissioner on June 18, 2018.

The deputy commissioner found claimant carried her burden of proof to establish that the permanent disability she sustained as a result of the stipulated work injury, which occurred on August 6, 2016, extends beyond claimant's left upper extremity into claimant's left shoulder and into her body as a whole. The deputy commissioner found claimant sustained 70 percent industrial disability as a result of the work injury, which entitles claimant to receive 350 weeks of permanent partial disability benefits commencing on July 13, 2017. The deputy commissioner found claimant carried her burden of proof to establish she is entitled to receive additional healing period benefits for the work injury from March 31, 2017, through April 8, 2017, and from April 14, 2017, through July 12, 2017.

Defendants assert on appeal that the deputy commissioner erred in finding claimant carried her burden of proof to establish that the permanent disability claimant sustained as a result of the work injury extends beyond claimant's left upper extremity into her left shoulder and into her body as a whole. Defendants assert the deputy commissioner erred in finding claimant sustained anything more than scheduled member functional disability of her left upper extremity as result of the work injury.

Defendants assert the deputy commissioner erred in finding claimant is entitled to receive additional healing period benefits for the work injury from March 31, 2017, through April 8, 2017, and from April 14, 2017, through July 12, 2017.

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

Those portions of the proposed agency 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 July 18, 2019, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned 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 carried her burden of proof to establish that the permanent disability she sustained as a result of the work injury extends beyond her left upper extremity into her left shoulder and into her body as a whole. I affirm the deputy commissioner's finding that claimant sustained 70 percent industrial disability as a result of the work injury. I affirm the deputy commissioner's finding that claimant carried her burden of proof to establish she is entitled to receive additional healing period benefits for the work injury from March 31, 2017, through April 8, 2017, and from April 14, 2017, through July 12, 2017.

I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on July 18, 2019, is affirmed in its entirety.

Defendants shall pay claimant healing period benefits at the stipulated weekly rate of two hundred thirty-two and 36/100 dollars (\$232.36) from March 31, 2017, through April 8, 2017, and from April 14, 2017, through July 12, 2017.

Defendants shall pay claimant three hundred fifty (350) weeks of permanent partial disability benefits at the stipulated weekly rate of two hundred thirty-two and 36/100 dollars (\$232.36) commencing on July 13, 2017.

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 receive a credit for all weekly benefits paid to date.

Per defendants' counsel's statement on the record at the arbitration hearing, defendants shall reimburse claimant plus interest for any underpayment in temporary benefits paid prior to the arbitration hearing.

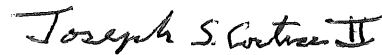
Per defendants' counsel's statement on the record at the arbitration hearing, defendants shall reimburse claimant for Dr. Bansal's IME expense.

Per defendants' counsel's statement on the record at the arbitration hearing, defendants will reimburse claimant for asserted costs.

Pursuant to rule 876 IAC 4.33, defendants shall pay 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 16th day of April, 2020.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

James C. Byrne Via WCES

D. Brian Scieszinski Via WCES