

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JONATHAN K. BONNES,

Claimant,

vs.

NORTHERN AG SERVICE, INC.,

Employer,

and

CONTINENTAL WESTERN
INSURANCE GROUP,

Insurance Carrier,
Defendants.

FILED

JUN 9 2015

WORKERS' COMPENSATION

File No. 5042928

APPEAL

DECISION

Head Note Nos.: 1803, 2500, 4000.2

On March 19, 2015, Joseph S. Cortese II, Workers' Compensation Commissioner, delegated the authority to the undersigned to issue the final agency decision on the intra-agency appeal currently pending before this agency. The decision in this matter shall be the final agency decision.

This was an arbitration case that was heard on April 3, 2014. The case was not deemed fully submitted until June 3, 2014. The presiding deputy workers' compensation commissioner issued the arbitration decision on June 24, 2014. The deputy ordered the following:

1. The defendants are to pay unto claimant ninety (90) weeks of permanent partial disability benefits at the rate of three hundred ten and 22/100 dollars (\$310.22) per week from June 1, 2010.
2. That defendants shall pay accrued weekly benefits in a lump sum.
3. That defendants shall pay interest on unpaid weekly benefits awarded herein as set forth in Iowa Code section 85.30.
4. That defendants are to be given credit for benefits previously paid.
5. That defendants shall file subsequent reports of injury as required by this agency pursuant to Rule 876 IAC 3.1(2).

6. That defendants shall pay the costs of this matter pursuant to Rule 876 IAC 4.33.

7. That defendants shall pay a penalty of seventy-seven and 17/100 dollars (\$77.17) for failure to timely pay waiting period benefits.

8. That defendants shall pay the entire IME costs in Exhibit 12 including copy charges, postage, parking, hotel bill, and meals. Defendants shall be given credit for any of the IME bill previously paid.

On July 9, 2014, claimant filed a notice of appeal. On July 24, 2014, claimant filed an affidavit pursuant to Iowa Code section 86.24 attesting to the fact claimant had reimbursed defendants for the cost of the hearing transcript. Claimant filed the appeal brief on August 27, 2014. Defendants filed their reply brief on September 15, 2014.

In his appeal brief, claimant argued:

1. Whether the Deputy's findings pertaining to claimant's past earnings and current wages were erroneous; and

2. Whether the Deputy erred in awarding the claimant an 18 percent industrial disability.

Defendants replied:

1. The deputy's factual findings and conclusions regarding Bonnes' wages were correct and provide a sound basis for her award of industrial disability.

2. The amount of industrial disability assigned by the deputy commissioner should be upheld.

The undersigned reviewed the record de novo. On appeal, the appellant dictates all issues to be determined on appeal. Iowa Code section 17A.15; 876 IAC 4.28(4). The detailed arguments of the parties have been considered.

The party who would suffer a loss if an issue were not established has the burden of proving the issue by a preponderance of the evidence. Iowa R. App. P. 6.14(6).

Pursuant to Iowa Code sections 86.24 and 17A.15, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed on June 24, 2014.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision of June 24, 2014, is AFFIRMED.

Claimant shall pay the costs of the appeal, including the preparation of the hearing transcript.

Signed and filed this 9th day of June, 2015.



MICHELLE A. McGOVERN
DEPUTY WORKERS' COMPENSATION
COMMISSIONER

Copies to:

Dennis J. Mahr
Attorney at Law
520 Nebraska St., Ste. 334 – Box B8
Sioux City, IA 51101-1307
mahrlaw@cableone.net

Caroline M. Westerhold
Attorney at Law
1248 O Street, Suite 600
Lincoln, NE 68508
cwesterhold@baylorennen.com