

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

ENOCH HEILIG,

Claimant,

VS.

PLIBRICO COMPANY, LLC,

Employer,

and

STARR INDEMNITY AND LIABILITY,

Insurance Carrier,
Defendants.

File No. 21006044.02

NUNC PRO TUNC ORDER

On February 25, 2022, the undersigned filed an arbitration decision in this case. On March 3, 2022, defendants filed a motion for order nunc pro tunc. Included with this motion was a miscellaneous filing of what was titled Defendants' Exhibit O.¹ In the motion, defendants requested for a correction of an obvious error in the decision. The undersigned contacted counsel jointly via email and claimant's counsel expressed no objection to the defendants' motion.

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. District Court for Washington City, 410 N.W.2d 224, 229 (Iowa 1987). Brinson v. Spee Dee Delivery Service, No. 8-754/06-2074 (Iowa App. November 13, 2008).

¹ There is no Defendants' Exhibit O in the record, however, the document included is in the record as Joint Exhibit 3, pages 36-37. Ordinarily, an exhibit not submitted at hearing would be rejected after the hearing under the agency's rules. In this case, the exhibit was legitimately entered into evidence and was merely incorrectly labeled in the post-hearing motion.

In this instance, the decision on page 10 in the Conclusions of Law and on page 12 in the Order, incorrectly set forth the extent of permanent impairment as 13 percent of the shoulder. The correct impairment is 8 percent of the shoulder.

THEREFORE, IT IS ORDERED:

Defendants' motion for order nunc pro tunc is sustained.


Page 10 (second paragraph) of the arbitration decision is amended as follows:

I find that claimant has sustained an 8 percent functional impairment to his left upper extremity based upon the rating from Dr. Goebel. I conclude that this entitles him to 32 weeks of compensation commencing on November 25, 2020, as stipulated by the parties.

Page 12, setting forth the award of permanent partial disability of the Order is amended as follows:

Defendants shall pay thirty-two (32) weeks of permanent partial disability benefits commencing on November 25, 2020.

Signed and filed this 8th day of March, 2022.



JOSEPH L. WALSH
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Walter Thomas (via WCES)

Jessica Voelker (via WCES)

Jill Hamer Conway (via WCES)