

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

PETER LOFTHUS,

Claimant,

VS.

KOCH BROTHERS, INC.,

Employer,

and

EMC INSURANCE COMPANY,

Insurance Carrier,
Defendants.

File Nos. 5064144, 5064145

ORDER NUNC PRO TUNC

FOR ORDER NUNC PRO TUNC, the undersigned states:

Claimant filed an application for order nunc pro tunc on June 9, 2021, asserting there is a scrivener's error in the fourth paragraph of the order which appears on page six of the appeal decision filed in this matter on May 25, 2021. That paragraph currently reads as follows:

Defendants shall pay, or reimburse, or otherwise hold claimant harmless for the requested past medical expenses itemized on pages 37a and 37b of claimant's Exhibit 6, along with corresponding mileage.

Claimant asserts that the paragraph in question should actually read as follows:

Defendants shall pay, or reimburse, or otherwise hold claimant harmless for the requested past medical expenses itemized on pages 37a, 37b and 41 of claimant's Exhibit 6, along with corresponding mileage.

Claimant's assertion is correct and the scrivener's error should be corrected

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).

In this instance, it was my intent to state in the fourth paragraph of the order of the appeal decision that defendants shall pay, or reimburse, or otherwise hold claimant harmless for the requested past medical expenses itemized on pages 37a, 37b and 41 of claimant's Exhibit 6, along with corresponding mileage.

ORDER


IT IS THEREFORE ORDERED:

The fourth paragraph of the Order which appears on page six of the appeal decision filed in this matter on May 25, 2021, is amended to read:

Defendants shall pay, or reimburse, or otherwise hold claimant harmless for the requested past medical expenses itemized on pages 37a, 37b and 41 of claimant's Exhibit 6, along with corresponding mileage.

There are no other changes to the appeal decision filed in this matter on May 25, 2021.

Signed and filed this 11th day of June, 2021.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

Copies to:

James Neal (via WCES)

Lindsey Mills (via WCES)