

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

ROXANNA WALKER (f/k/a FIRLICK),

Claimant,

vs.

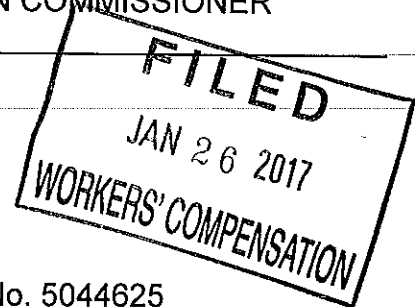
QUAKER OATS COMPANY,

Employer,

and

INDEMNITY INSURANCE COMPANY
OF NORTH AMERICA,

Insurance Carrier,
Defendants.



File No. 5044625

ORDER NUNC PRO TUNC

On January 10, 2017, the undersigned issued a review-reopening decision in this matter. On January 13, 2017, claimant filed a motion for order nunc pro tunc. More than 10 days have passed and no resistance is on file.

Claimant's motion states that in the review-reopening decision on page 17, the fourth paragraph, the undersigned wrote ". . . I conclude that claimant's argument that the claim is barred by res judicata and judicial estoppel is without merit." (emphasis added) The motion is correct that this is a typographical error and should have stated ". . . I conclude that defendant's argument that the claim is barred by res judicata and judicial estoppel is without merit." (emphasis added)

Claimant's motion also states that on page 19, first full paragraph, the last sentence, the undersigned stated ". . . Dr. Hitchon's report was not issued until December 18, 2015 and could have been relied on . . ." (emphasis added) Again, the motion is correct that this is a typographical error and should have stated ". . . Dr. Hitchon's report was not issued until December 18, 2015 and could not have been relied on . . ." (emphasis added)

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 claimant appropriately seeks an order nunc pro tunc to correct obvious typographical or scrivener errors and that the motion should be granted.

IT IS THEREFORE ORDERED that claimant’s motion for order nunc pro tunc is granted.

IT IS FURTHER ORDERED that the review-reopening decision in this matter, issued January 10, 2017, is hereby corrected as described above.

Signed and filed this 26th day of January, 2017.



TOBY J. GORDON
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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