

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

SANDRA BRUCE,

Claimant,

vs.

H.L. CORPORATION, d/b/a CRESTON
FAMILY RESTAURANT,

Employer,

and

STATE AUTO PROPERTY &
CASUALTY INSURANCE COMPANY,

Insurance Carrier,
Defendants.

FILED

MAR 9 2018

WORKERS' COMPENSATION

File No. 5054197

A P P E A L

D E C I S I O N

Head Note Nos: 1803; 5-9998

Defendants H.L. Corporation, d/b/a Creston Family Restaurant, employer, and its insurer, State Auto Property & Casualty Insurance Company, appeal from an arbitration decision filed on July 29, 2016. Claimant Sandra Bruce responds to the appeal. The case was heard on June 10, 2016, and it was considered fully submitted in front of the deputy workers' compensation commissioner on July 6, 2016.

The deputy commissioner found claimant sustained 60 percent industrial disability as a result of the stipulated injury which arose out of and in the course of her employment with defendant-employer on September 2, 2013, which entitles claimant to 300 weeks of permanent partial disability (PPD) benefits commencing on August 7, 2014. The deputy commissioner found defendants are entitled to a credit of 78.571 weeks of PPD benefits paid to claimant prior to the arbitration hearing. The deputy commissioner also ordered defendants to pay claimant's costs of the arbitration proceeding.

Defendants assert the deputy commissioner erred in finding claimant sustained 60 percent industrial disability as result of the work injury. Defendants assert the award of industrial disability should be reduced substantially.

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.

Having performed a de novo review of the evidentiary record and the detailed arguments of the parties, 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 29, 2016, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided sufficient analysis of the issues raised in the arbitration proceeding. I affirm the deputy commissioner's finding that claimant sustained 60 percent industrial disability as a result of the work injury, which entitles claimant to receive 300 weeks of PPD benefits commencing on August 7, 2014. I affirm the deputy commissioner's finding that defendants are entitled to a credit of 78.571 weeks of PPD benefits paid to claimant prior to the arbitration hearing. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding. 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 29, 2016, is affirmed in its entirety.

Defendants shall pay claimant three hundred (300) weeks of permanent partial disability benefits at the stipulated rate of one hundred ninety-eight and 05/100 dollars (\$198.05) per week from August 7, 2014.

Defendants shall receive a credit against this award for the seventy-eight point five seven one (78.571) weeks of permanent partial disability benefits paid to claimant prior to the arbitration hearing.

Defendants shall pay accrued weekly benefits in a lump sum together with interest pursuant to Iowa Code section 85.30.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding, and 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 9th day of March, 2018.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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