

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

DORA M. GOULD,

Claimant,

vs.

SERTA/NATIONAL BEDDING
CO., LLC,

Employer,

and

SAFETY NATIONAL CASUALTY
CORP.,

Insurance Carrier,
Defendants.

FILED

FEB - 6 2019

WORKERS' COMPENSATION

File No. 5055887

A P P E A L

D E C I S I O N

Head Note Nos: 1803; 4000.2; 5-9998

Defendants Serta/National Bedding Co., LLC, employer, and its insurer, Safety National Casualty Corp., appeal from an arbitration decision filed on September 15, 2017. Claimant Dora M. Gould responds to the appeal. The case was heard on May 8, 2017, and it was considered fully submitted in front of the deputy workers' compensation commissioner on May 30, 2017.

The deputy commissioner found claimant sustained 40 percent industrial disability, which entitles claimant to receive 200 weeks of permanent partial disability (PPD) benefits commencing on July 21, 2014, as a result of the stipulated injury which arose out of and in the course of claimant's employment with defendant-employer on October 21, 2013. The deputy commissioner found claimant is entitled to receive \$5,000.00 in penalty benefits for an unreasonable delay by defendants in the payment of PPD benefits based on the permanent impairment rating issued by authorized treating neurosurgeon David Beck, M.D. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding.

Defendants assert on appeal that the deputy commissioner erred in finding claimant sustained 40 percent industrial disability as a result of the work injury. Defendants assert the award for industrial disability should be reduced substantially. Defendants assert the deputy commissioner erred in awarding penalty benefits.

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.

I have performed a de novo review of the evidentiary record and the detailed arguments of the parties and 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 September 15, 2017, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis of all of the issues raised in the arbitration proceeding. I affirm the deputy commissioner's findings of fact and conclusions of law pertaining to those issues.

I affirm the deputy commissioner's finding that claimant sustained 40 percent industrial disability as a result of the October 21, 2013, work injury. I affirm the deputy commissioner's award of \$5,000.00 in penalty benefits. 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 September 15, 2017, is affirmed in its entirety.

Defendants shall pay claimant two hundred (200) weeks of permanent partial disability benefits at the rate of two hundred ninety-one and 46/100 dollars (\$291.46) per week commencing on July 21, 2014.

Defendants shall receive a credit for all benefits previously paid.

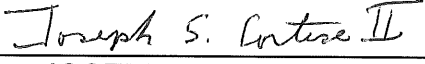
Defendants shall pay accrued weekly benefits in a lump sum together with interest at the rate of ten percent for all weekly benefits payable and not paid when due which accrued before July 1, 2017, and all interest on past due weekly compensation benefits accruing on or after July 1, 2017, shall be payable at an annual rate equal to the one-year treasury constant maturity published by the federal reserve in the most recent H15 report settled as of the date of injury, plus two percent. See Gamble v. AG Leader Technology, File No. 5054686 (App. Apr. 24, 2018).

Defendants shall pay claimant a penalty of five thousand and 00/100 dollars (\$5,000.00) for the unreasonable delay in the payment of permanent partial disability benefits based on Dr. Beck's rating.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration, 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 6th day of February, 2019.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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