

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

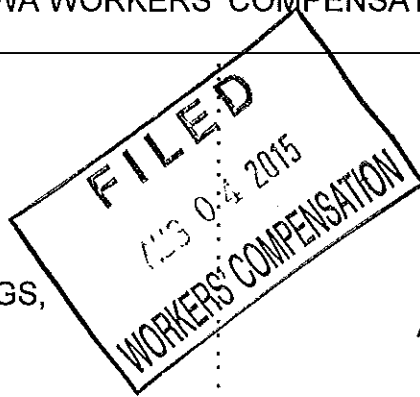
ERIC WOODS,
Claimant,

vs.

KEOKUK STEEL CASTINGS,
Employer,

and

TRAVELERS INSURANCE CO.,
Insurance Carrier,
Defendants.



File No. 5050004

ARBITRATION
DECISION

Head Note Nos.: 1803, 1803.1

STATEMENT OF THE CASE

Claimant, Eric Woods, filed a petition in arbitration seeking workers' compensation benefits from Keokuk Steel Castings (Keokuk), employer, and Travelers Insurance Company, insurer, both as defendants.

This case was held in Des Moines, Iowa on June 24, 2015. The record in this case consists of joint exhibits A-H, and the testimony of claimant.

ISSUE

The extent of claimant's entitlement to permanent partial disability benefits.

FINDINGS OF FACT

Claimant was 35 years old at the time of hearing. Claimant graduated from high school. He went to a trade school to learn heating and air condition repair and maintenance. Claimant has worked at Keokuk as a welder since April of 2011.

On March 11, 2014 claimant was working at Keokuk when a large hook fell on claimant's leg causing a crush injury. Claimant estimated the hook weighed approximately 2000 pounds. Claimant was taken by ambulance to Fort Madison Community Hospital. X-rays did not show a fracture to his left leg. (Exhibit A, pages 1-12)

Claimant returned to Fort Madison Community Hospital the next day with complaints of leg pain. He was treated with medication and referred to an orthopedic surgeon. (Ex. A, pp. 13-14)

Claimant was evaluated by Joseph Darrow, M.D., an orthopedic surgeon, on March 14, 2014. Notes indicate claimant had pain and swelling in the left knee. Claimant testified at hearing, his pain was in his leg below the knee, and not in the knee. Claimant was assessed as having a possible compartment syndrome. Claimant underwent a superficial compartment pressure evaluation on the left calf. Based on that pressure reading, Dr. Darrow did not believe claimant had a compartment syndrome. Claimant was treated with medications. (Ex. B, pp. 1-5)

Claimant returned in followup with Dr. Darrow on March 15, 2014. Claimant noticed a bad smell coming from the left lower extremity. Claimant was assessed as having tissue loss in the left lower leg in an infected wound. Dr. Darrow recommended that the scabbing tissue on the wound be debrided. Claimant underwent a debridement of the soft tissue by Dr. Darrow on May 17, 2014. Claimant testified that as a part of the operation, claimant also had a skin graft on the area of the wound to promote healing. (Ex. B, pp. 15-19)

In an October 10, 2014 report, Richard Neiman, M.D., gave his opinions of claimant's condition following an independent medical evaluation (IME). Dr. Neiman recommended claimant wear an elastic hose over the wound site. Dr. Neiman found claimant had a 15 percent permanent impairment to the body as a whole based on swelling, weakness, and loss of range of motion to the left leg. Claimant was not given any permanent restrictions. (Ex. D)

Claimant returned to Dr. Darrow on December 18, 2014. Claimant was assessed as having a staph infection in his wound and had been prescribed antibiotics. Claimant was found to be at maximum medical improvement (MMI). He was returned to regular work without any restrictions. (Ex. B, pp. 23-26)

On April 7, 2015 claimant was evaluated by Brent Woodbury, M.D. Claimant was found to have a 6 percent permanent impairment for the skin disorder, and a 4 percent permanent impairment to the lower extremity due to loss of sensation. Claimant had no permanent impairment due to loss of range of motion or strength. He was found to have an 8 percent permanent impairment to the body as a whole. Claimant was not given any permanent restrictions. (Ex. B, pp. 27-30)

Claimant testified he still has problems with the lower part of his left leg. He said the area of the graft is very sensitive to cutting and bruising. Claimant testified the area of the graft will rub on his pants, and the area is easily irritated. Claimant said he also has numbness from the area of the wound to his ankle and into his foot.

Claimant testified that because of his leg injury, he will occasionally limp. This has caused him some hip and back pain. Claimant said no doctor has evaluated or treated him for hip or low back pain.

Claimant testified he takes over-the-counter medication for pain. He said Dr. Neiman recommended he use an elastic hose or sleeve over his left ankle. Claimant said he occasionally uses the hose on his leg.

At the time of hearing claimant was voluntarily laid off from Keokuk. Claimant testified he expected to return to work with his employer in September of 2015. He testified he has the same job and the same work station, both before and after his injury. Claimant testified he has no permanent restrictions or accommodations at Keokuk.

CONCLUSIONS OF LAW

The only issue to be determined in this matter is the extent of claimant's entitlement to permanent partial disability benefits.

The party who would suffer loss if an issue were not established has the burden of proving that issue by a preponderance of the evidence. Iowa R. App. P. 6.14(6).

The claimant has the burden of proving by a preponderance of the evidence that the alleged injury actually occurred and that it both arose out of and in the course of the employment. Quaker Oats Co. v. Ciha, 552 N.W.2d 143 (Iowa 1996); Miedema v. Dial Corp., 551 N.W.2d 309 (Iowa 1996). The words "arising out of" referred to the cause or source of the injury. The words "in the course of" refer to the time, place, and circumstances of the injury. 2800 Corp. v. Fernandez, 528 N.W.2d 124 (Iowa 1995). An injury arises out of the employment when a causal relationship exists between the injury and the employment. Miedema, 551 N.W.2d 309. The injury must be a rational consequence of a hazard connected with the employment and not merely incidental to the employment. Koehler Electric v. Wills, 608 N.W.2d 1 (Iowa 2000); Miedema, 551 N.W.2d 309. An injury occurs "in the course of" employment when it happens within a period of employment at a place where the employee reasonably may be when performing employment duties and while the employee is fulfilling those duties or doing an activity incidental to them. Ciha, 552 N.W.2d 143.

If claimant has an impairment to the body as a whole, an industrial disability has been sustained. Industrial disability was defined in Diederich v. Tri-City R. Co., 219 Iowa 587, 258 N.W. 899 (1935) as follows: "It is therefore plain that the legislature intended the term 'disability' to mean 'industrial disability' or loss of earning capacity and not a mere 'functional disability' to be computed in the terms of percentages of the total physical and mental ability of a normal man."

Functional impairment is an element to be considered in determining industrial disability which is the reduction of earning capacity, but consideration must also be

given to the injured employee's age, education, qualifications, experience, motivation, loss of earnings, severity and situs of the injury, work restrictions, inability to engage in employment for which the employee is fitted and the employer's offer of work or failure to so offer. McSpadden v. Big Ben Coal Co., 288 N.W.2d 181 (Iowa 1980); Olson v. Goodyear Service Stores, 255 Iowa 1112, 125 N.W.2d 251 (1963); Barton v. Nevada Poultry Co., 253 Iowa 285, 110 N.W.2d 660 (1961).

Compensation for permanent partial disability shall begin at the termination of the healing period. Compensation shall be paid in relation to 500 weeks as the disability bears to the body as a whole. Section 85.34.

The record indicates a hook, weighing approximately 2000 pounds, fell on claimant's left ankle. All care given to claimant has been in the area of his left ankle. The debridement and the skin graft of the wound occurred on the left ankle. The situs of claimant's injury is to the left ankle. Claimant testified his left leg injury causes him to limp. He says this has resulted in pain to both his hip and lower back. Claimant testified no doctor has treated his back or hip in regards to the March of 2014 accident. He testified no doctor has opined he has a hip or back injury from the March of 2014 accident. Based on this, it is found claimant's injury should be a scheduled member disability to the left leg.

Two experts have opined regarding the extent of claimant's permanent impairment. Dr. Neiman, in an October 10, 2014 report, found claimant had a 15 percent permanent impairment to the body as a whole. (Ex. D, p. 3) Dr. Woodbury, in an April 7, 2015 report, found claimant had an 8 percent permanent impairment to the body as a whole. (Ex. B, p. 29)

Dr. Woodbury's examination and evaluation was performed after claimant had a staph infection. The evaluation was also done closer in time to the date of hearing. As such, it is a more accurate picture of what claimant's condition was at the time of hearing. Based on this, it is found Dr. Woodbury's opinion regarding claimant's permanent impairment is more convincing than that of Dr. Neiman.

According to the AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition, table 17-3, page 527, an 8 percent permanent impairment to the body as a whole results in a range between 19-21 percent permanent impairment to the lower extremity. Based on the extreme nature of claimant's injury and the multiple procedures performed on claimant because of the injury, I find a 21 percent permanent impairment to the lower extremity is appropriate in this case. (Ex. D, p. 3) Based on this, claimant is due 46.2 weeks of permanent partial disability benefits (220 weeks x 21 percent).

ORDER

THEREFORE IT IS ORDERED:

That defendants shall pay claimant forty-six point two (46.2) weeks of permanent partial disability benefits at the rate of five hundred eighty-four and 10/100 dollars (\$584.10) per week commencing on August 25, 2014.

That defendants shall pay accrued benefits in a lump sum.

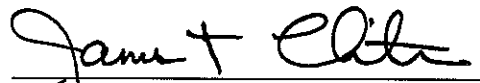
That defendants shall pay interest on unpaid weekly benefits as ordered above as set forth in Iowa Code section 85.30.

That defendants shall receive a credit for benefits previously paid.

That defendants shall file subsequent reports of injury as required under rule 876 IAC 3.1(2).

That defendants shall pay the costs of this matter.

Signed and filed this 4th day of August, 2015.



JAMES F. CHRISTENSON
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

Copies To:

James P. Hoffman
Attorney at Law
PO Box 1087
Keokuk, IA 52632
jamesphoffman@aol.com

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Peter J. Thill
Attorney at Law
111 E. Third St., Ste. 600
Davenport, IA 52801-1596
pjt@bettylawfirm.com

JFC/sam

Right to Appeal: This decision shall become final unless you or another interested party appeals within 20 days from the date above, pursuant to rule 876-4.27 (17A, 86) of the Iowa Administrative Code. The notice of appeal must be in writing and received by the commissioner's office within 20 days from the date of the decision. The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday. The notice of appeal must be filed at the following address: Workers' Compensation Commissioner, Iowa Division of Workers' Compensation, 1000 E. Grand Avenue, Des Moines, Iowa 50319-0209.