

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

FILED

DEC 14 2017

WORKERS' COMPENSATION

LARRY WELSH, JR.,

Claimant,

vs.

EAST SIDE JERSEY DAIRY, INC.,
d/b/a PRAIRIE FARMS DAIRY, INC.,

Employer,

and

STANDARD FIRE INSURANCE
COMPANY,

Insurance Carrier,
Defendants.

File No. 5049819

APPEAL
DECISION

Head Note Nos: 1803; 5-9998

Defendants East Side Jersey Dairy, Inc. d/b/a Prairie Farms Dairy, Inc., employer, and its insurer, Standard Fire Insurance Company, appeal from an arbitration decision filed on May 18, 2016. Claimant Larry Welsh, Jr., cross-appeals. The case was heard on March 3, 2016, and it was considered fully submitted in front of the deputy workers' compensation commissioner on March 14, 2016.

The deputy commissioner found claimant sustained 35 percent industrial disability as a result of the stipulated injury which arose out of and in the course of claimant's employment with defendant-employer on December 4, 2013, which entitles claimant to 175 weeks of permanent partial disability (PPD) benefits commencing September 29, 2014. The deputy commissioner also ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$100.00.

Defendants assert on appeal that the deputy commissioner erred in awarding claimant anything more than 20 percent industrial disability, which would entitled claimant to 100 weeks of PPD benefits paid by defendants prior to the arbitration hearing.

Claimant asserts on cross-appeal that the deputy commissioner erred in failing to award claimant substantially more than 35 percent industrial disability.

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 May 18, 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 findings of fact and conclusions of law pertaining to those issues. I affirm the deputy commissioner's finding that claimant sustained 35 percent industrial disability as a result of the work injury, which entitles claimant to 175 weeks of PPD benefits commencing September 29, 2014. I also affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$100.00. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on May 18, 2016, is affirmed in its entirety.

Defendants shall pay claimant one hundred seventy-five (175) weeks of permanent partial disability benefits commencing on September 29, 2014, at the stipulated weekly rate of seven hundred ninety-four and 42/100 dollars (\$794.42).

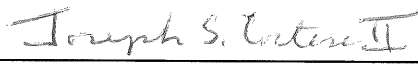
Defendants shall receive a credit for all weekly benefits paid.

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 in the amount of \$100.00, and the parties shall split 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 this 14th day of December, 2017.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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