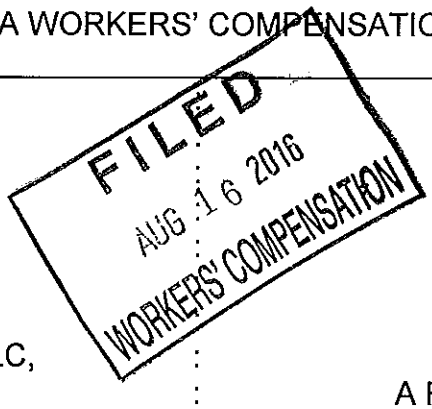
BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER




RYAN LEE BAKER,

Claimant,

vs.

HAMES COMMUNITIES, LLC,

Employer,

and

EMC INSURANCE COMPANIES,

Insurance Carrier,
Defendants.

File No. 5051470

ARBITRATION

DECISION

Head Note Nos.: 1803, 4000.2

## STATEMENT OF THE CASE

Claimant, Ryan Lee Baker filed a petition in arbitration seeking workers' compensation benefits from Hames Communities, LLC (Hames), employer, and EMC Insurance Companies, insurer, both as defendants. This case was heard in Des Moines, Iowa on May 12, 2016 with a final submission date of June 10, 2016.

The record in this case consists of claimant's Exhibits 1-7, defendants' Exhibits A through G, and the testimony of claimant, Gerald Baker, Barbara Hames, and Darlene Liveringhouse.

## ISSUES

1. Whether the injury is a cause of a permanent disability; and if so
2. The extent of claimant's entitlement to permanent partial disability benefits.
3. Whether defendants are liable for a penalty under Iowa Code section 86.13.

## FINDINGS OF FACT

Claimant was 38 years old at the time of hearing. Claimant went to school up to the 12th grade but did not graduate. Claimant has a GED.

Claimant worked at Nash Finch, a food warehouse, filling out orders for grocery stores. He has worked as a mill operator with PMX Industries performing factory work. Claimant did assembly work at a wind power factory. He has also worked for Darrah Towing Services, (Darrah's) for five years.

Claimant began employment with Hames in approximately September 2013. Hames Communities operates mobile home parks. Claimant was hired by Hames as an assistant manager. His duties included maintenance, mowing, snow removal, and dealing with tenant issues. In May of 2014 claimant was promoted to a manager's position. (Exhibit 6, page 1)

Claimant's medical history is relevant. Claimant testified he had a lower back injury while working at Darrah's. On November 5, 2013 claimant was evaluated at Mercy Medical Center for lower back strain. He was prescribed medication and released. (Ex. 2, pp. 1-2)

Claimant was evaluated by Dr. Brown, D.C. (no first name given) for lower back pain in September 2013. In a September 24, 2013 letter Dr. Brown noted claimant's back pain was slightly improving. (Ex. B, pp. 1-2)

On October 2, 2013 claimant returned to Mercy noting improvement with back pain. Claimant had walked four miles at that time without difficulty. He was ready to return to work. His prognosis was listed as excellent. (Ex. 2, pp. 3-4)

On October 9, 2013 claimant underwent a lumbar MRI. It showed no evidence of disc herniation. Claimant's symptoms were found to have resolved. (Ex. 2, p. 5)

There is no evidence claimant had any permanent impairment or permanent restrictions from his injury with Darrah's.

Gerald Baker testified he is claimant's father. Mr. Baker testified he worked for Hames beginning in approximately 2009. Mr. Baker was initially claimant's supervisor. He said Troy Hames, one of the owners of Hames Communities, approached him about hiring claimant as an employee. Mr. Baker testified that in October 2013, claimant told Troy Hames he had been off work at Darrah's due to a back strain, but had been okay to return to work. Gerald Baker said Troy Hames knew of claimant's back strain at Darrah's, but had no problem with it as long as claimant was okay to work.

On July 8, 2014 claimant was cutting up trees with a chainsaw and loading wood and brush into a dump trailer. Claimant said while loading wood, he felt a pop in his lower back. He said the injury happened around 10 o'clock in the morning.

Claimant told his supervisor, his father, he hurt his back. Gerald Baker told his son to take it easy. Claimant testified his back pain became worse as the day went on. He testified Gerald Baker told him to go home around 2:00 p.m.

Claimant went home and eventually went to bed. Claimant said the next morning he was not able to get out of bed due to back pain. Claimant was taken by ambulance to Mercy Hospital on July 9, 2014. (Ex. 1, p. 3)

On July 9, 2014 claimant underwent a lumbar MRI at Mercy. It showed an L5-S1 disc extrusion on the right. (Ex. E; Ex. 3, p. 1)

On July 9, 2014 claimant met with Chad Abernathey, M.D. at Mercy, on an urgent care consult. Surgery was discussed and chosen as a treatment option. (Ex. 3, p. 1)

On July 9, 2014 claimant signed an EMC work injury form. One of the questions on the form asked claimant if he had "Any previous similar injury?" The form is marked as "No." (Ex. 5, p. 2) Gerald Baker testified he completed this form for his son, and his son signed the form. Gerald Baker testified he was unaware his son had an injury similar to the July 8, 2014 injury.

On July 10, 2014 claimant underwent a lumbar laminectomy at the L5-S1 level. Surgery was performed by Dr. Abernathey. (Ex. 2, p. 7; Ex. 3, p. 2)

On July 10, 2014 Dr. Abernathey signed an EMC work-related injury report. The report indicated claimant had a herniated lumbar disc, that claimant was going to have surgery and that the injury was work related. (Ex. 5, p. 3)

Claimant returned in followup care with Dr. Abernathey on July 18, 2014. Claimant was offered physical therapy, but he declined. Claimant was allowed to return to work at light duty on July 28, 2014. Claimant testified he was restricted to lifting up to 10 pounds at that time. (Ex. 3, pp. 2-3)

Claimant testified surgery gave him significant improvement in symptoms. He testified he did not return for further followup care with Dr. Abernathey, as he was embarrassed that medical bills were not being paid.

Claimant returned to work on July 28, 2014. Claimant testified he worked light duty for approximately six weeks and then returned to work at his regular duties. Claimant testified during this time he received medical bills for his treatment for his work injury. He testified he spoke with Barbara and Troy Hames, the owners of Hames Communities, LLC. He also spoke with Darlene Liveringhouse, a claims adjustor for defendant insurer. He said the only response he received from anyone was that they were looking into his situation.

Barbara Hames testified she is the owner of Hames Communities. In that capacity she is familiar with claimant's job and his work-related injury. Ms. Hames testified she was aware of claimant's injury the day it happened. She testified claimant routinely asked about the status of his workers' compensation claim. She said she felt bad the insurer took so long to deal with Mr. Baker's claim.

Ms. Hames testified she spoke with claimant's coworkers soon after claimant's injury. She said coworkers told her claimant had a prior back injury and had seen a chiropractor. Ms. Hames testified she immediately reported this information to EMC.

On September 9, 2014 claimant was given a pay raise. (Ex. 6, p. 6)

On September 15, 2014 claimant had an employee evaluation from Hames, titled "Community Manager Appraisal." The review found claimant exceeded expectations in three areas, met expectations in six areas and needed improvement in only one area. (Ex. 6)

Claimant testified in August and September of 2014 he continued to ask about his workers' compensation medical bills in conversations with Ms. Barbara Hames and Ms. Liveringhouse. He said Ms. Hames told him she did not know anything, and he was unable to contact Ms. Liveringhouse.

Claimant testified Hames had a program where residents, who wanted to improve their mobile homes, could get financing through Hames. On October 28, 2014 claimant entered into a financing agreement with Hames for claimant to purchase a faucet, a dishwasher and a garbage disposal. The agreement was signed by Theresa Geyer. Ms. Geyer was the office manager for Summit View Village, a Hames entity. (Ex. 6, p. 7)

In a November 20, 2014 letter claimant received notice from the Hames Communities terminating his employment. Claimant's termination was effective December 4, 2014. The letter gives no rationale for claimant's termination. (Ex. 6, p. 8)

Claimant testified he believed he was terminated because of his back injury. Claimant said he believed he was terminated, as he told Ms. Hames he was considering hiring an attorney to deal with the insurer concerning his unpaid medical bills.

Ms. Hames testified claimant was terminated because he charged the dishwasher and garbage disposal to a company credit card. She said Ms. Baker told her, he thought he could repay the items through a community assistance program.

Claimant testified he obtained prior approval, from the office manager, Ms. Geyer, before making purchases on the credit card. He said he was not trying to hide his use of a company credit card, as he knew any purchase on a company credit card would eventually be seen by Hames' office staff.

Claimant testified when he was terminated from Hames he earned $41,000.00 a year. He was also given a $335.00 lot fee for free, and a $90.00 per month storage garage for free.

Claimant testified that in May of 2015 he was hired by NFI. Claimant said NFI received bread from bakeries and then shipped it out to various customers. Claimant worked the third shift for NFI as a supervisor. He said he stayed on the job with NFI for

approximately two weeks. He said he left the job, as it involved a lot of lifting, and he thought this would be detrimental to his back condition.

Claimant testified he returned to Darrah's on June 15, 2015. Claimant was still employed with Darrah's at the time of hearing. At Darrah's claimant drives a tow truck, and loads and unloads vehicles off a flatbed. Claimant testified he gave Darrah's notice he was not going to work for them during the wintertime due to his back. Claimant works between 35 to 40 hours per week at Darrah's. He earns approximately $14.00 an hour.

In a June 10, 2015 report, Richard Neiman, M.D. gave his opinions of claimant's condition following an independent medical evaluation (IME). Claimant complained of some stiffness in his back and difficulties with lifting. Dr. Neiman opined claimant had a 15 percent permanent impairment to the body as a whole based on range of motion method found in the AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition, using Tables 15-9 and 15-18. Dr. Neiman recommended claimant avoid excessive flexion and extension at the lumbar spine. He recommended claimant reduce squatting and kneeling. He also recommended claimant not repetitively lift more than 15-25 pounds, and not lift more than 50 pounds. (Ex. 4)

In a December 18, 2015 letter, written by defense counsel, Dr. Abernathey indicated claimant had between a 5 to 8 percent permanent impairment to the body as a whole based upon his review of the Guides. He agreed claimant was released to return to work at full duty. (Ex. 3, p. 5)

Darlene Liveringhouse testified she is a claims adjustor with EMC and was involved with handling claimant's claim for workers' compensation benefits.
Ms. Liveringhouse said at about the time the July 8, 2014 injury was reported, she was informed claimant had a prior back injury.

Ms. Liveringhouse said she received medical records from Dr. Abernathey approximately in mid-June of 2014. This includes the record that claimant's July of 2014 injury was work related. (Ex. 5, p. 3) She said she received medical records from Mercy Medical Center in late August of 2014.

Ms. Liveringhouse testified she learned claimant had an MRI before July of 2014 in approximately August of 2014. She testified she asked claimant where the prior MRI was taken. Ms. Liveringhouse testified claimant could not recall where the MRI was taken but believed it was at one of the two hospitals in Cedar Rapids.
Ms. Liveringhouse said she wrote to both hospitals in September of 2014 for claimant's records. Ms. Liveringhouse said St. Lukes responded to her request for medical records, indicating it would not honor claimant's authorization form.

Claimant filed a petition for benefits on December 5, 2014. On December 18, 2014 defense counsel wrote claimant's counsel indicating defendant insurer had

difficulty investigating claim due to difficulty in getting records from St. Lukes. (Ex. G, p. 1)

At the end of January 2015, defense counsel received the St. Lukes' records, including claimant's September of 2013 MRI. (Ex. A)

Ms. Liveringhouse initially testified there was no difference between the September of 2013 and July of 2014 MRIs. (Transcript p. 135) Ms. Liveringhouse later testified when she reviewed the St. Lukes MRI, from September of 2013, she knew the September of 2013 MRI was benign and the July of 2014 MRI showed a herniated disc. (Tr. p. 138)

Ms. Liveringhouse testified EMC continued to deny the claim, as they were still gathering information regarding claimant's injury.

In an April 8, 2015 letter, defense counsel wrote to claimant's counsel asking if claimant wished to attempt mediation of the claim. (Ex. 6, p. 10) Ms. Liveringhouse testified that at that time, EMC had all the information it needed regarding claimant's claim. (Tr. p. 141) Ms. Liveringhouse appeared to testify at hearing that EMC did not want to pay claimant's temporary benefits and medical bills in April of 2015, as there would be ". . . nothing left to pay out at settlement. . ." (Tr. pp. 142, 145-146)

Claimant's deposition was taken on June 16, 2015. (Ex. 7) EMC paid claimant's temporary benefits and medical bills on or about August 28, 2015. (Tr. pp. 145-146)

Claimant testified he has never received information why no benefits were paid from July of 2014 through August of 2015.

Claimant testified he still gets stiff and sore after too much activity. He says he no longer participates in sports due to his low back condition. He says he no longer plays sports with his children due to his lower back condition. Claimant said he regularly takes over-the-counter medication for pain.

## CONCLUSIONS OF LAW

The first issue to be determined is if claimant sustained a permanent disability from the July 2014 injury.

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 injury is a proximate cause of the disability on which the claim is based. A cause is proximate if it is a substantial factor in bringing about the result; it need not be the only cause. A preponderance of the evidence exists when the causal connection is probable rather than merely possible. George A. Hormel & Co. v. Jordan, 569 N.W.2d 148 (Iowa

1997); Frye v. Smith-Doyle Contractors, 569 N.W.2d 154 (Iowa App. 1997); Sanchez v. Blue Bird Midwest, 554 N.W.2d 283 (Iowa App. 1996).

The question of causal connection is essentially within the domain of expert testimony. The expert medical evidence must be considered with all other evidence introduced bearing on the causal connection between the injury and the disability. Supportive lay testimony may be used to buttress the expert testimony and, therefore, is also relevant and material to the causation question. The weight to be given to an expert opinion is determined by the finder of fact and may be affected by the accuracy of the facts the expert relied upon as well as other surrounding circumstances. The expert opinion may be accepted or rejected, in whole or in part. St. Luke's Hosp. v. Gray, 604 N.W.2d 646 (Iowa 2000); IBP, Inc. v. Harpole, 621 N.W.2d 410 (Iowa 2001); Dunlavey v. Economy Fire and Cas. Co., 526 N.W.2d 845 (Iowa 1995). Miller v. Lauridsen Foods, Inc., 525 N.W.2d 417 (Iowa 1994). Unrebutted expert medical testimony cannot be summarily rejected. Poula v. Siouxland Wall & Ceiling, Inc., 516 N.W.2d 910 (Iowa App. 1994).

Claimant's July of 2014 injury resulted in a herniated disc at the L4-S1 levels. Claimant underwent back surgery. Both Dr. Abernathey and Dr. Neiman opined claimant has a permanent impairment from the July of 2014 injury. Given this record, claimant has carried his burden of proof his July of 2014 injury resulted in a permanent disability.

The next issue to be determined is the extent of claimant's entitlement to permanent partial disability benefits.

Since 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.

Claimant was 38 years old at the time of hearing. He has a GED. Claimant has worked at Nash Finch filling orders for grocery stores. He has worked in factories. Claimant has worked as a tow truck driver for Darrah's.

Two experts have opined regarding claimant's permanent impairment. Dr. Abernathey performed surgery on claimant. In a letter, written by defense counsel, Dr. Abernathey indicated claimant had between 5 to 8 percent permanent impairment based on the Guides, Fifth Edition. Dr. Abernathey did not evaluate claimant for permanent impairment. Dr. Abernathey did not reference to a portion of the Guides for making his finding of permanent impairment. It is unclear how Dr. Abernathey arrived at a range of permanent impairment. Given this record, it is found the opinions of Dr. Abernathey regarding claimant's permanent impairment and permanent restrictions are found not convincing.

Dr. Neiman saw claimant on one occasion for an IME. He opined claimant had a 15 percent permanent impairment to the body as a whole. I am able to understand how Dr. Neiman arrived at his findings of permanent impairment, based on his range of motion studies of claimant, and based on his reference to the Guides. Based on this, it is found Dr. Neiman's opinions regarding claimant's permanent impairment are more convincing than those of Dr. Abernathey.

Dr. Neiman restricted claimant to no repetitive lifting over 25 pounds, and a maximum lift of 50 pounds. These restrictions are consistent with claimant's testimony regarding his ability to lift and work after his surgery. Based on this, it is found the permanent restrictions recommended by Dr. Neiman are convincing.

Claimant was earning $41,000.00 per year with Hames. He was also given benefits. Claimant was also given free rental of a mobile home lot and a storage garage. At the time of hearing claimant was earning approximately $26,000.00 a year working for Darrah's. He has no benefits with Darrah's.

When all relevant factors are considered, it is found claimant has a 30 percent industrial disability or loss of earning capacity.

The next issue to be determined is whether defendants are liable for penalty.

In Christensen v. Snap-on Tools Corp., 554 N.W.2d 254 (Iowa 1996), and Robbennolt v. Snap-on Tools Corp., 555 N.W.2d 229 (Iowa 1996), the supreme court said:

> Based on the plain language of section 86.13, we hold an employee is entitled to penalty benefits if there has been a delay in payment unless the employer proves a reasonable cause or excuse. A reasonable cause or excuse exists if either (1) the delay was necessary for the insurer to investigate the claim or (2) the employer had a reasonable basis to

contest the employee's entitlement to benefits. A "reasonable basis" for denial of the claim exists if the claim is "fairly debatable."

Christensen, 554 N.W.2d at 260.

The supreme court has stated:

(1) If the employer has a reason for the delay and conveys that reason to the employee contemporaneously with the beginning of the delay, no penalty will be imposed if the reason is of such character that a reasonable fact-finder could conclude that it is a "reasonable or probable cause or excuse" under Iowa Code section 86.13. In that case, we will defer to the decision of the commissioner. See Christensen, 554 N.W.2d at 260 (substantial evidence found to support commissioner's finding of legitimate reason for delay pending receipt of medical report); Robbennolt, 555 N.W.2d at 236.

(2) If no reason is given for the delay or if the "reason" is not one that a reasonable fact-finder could accept, we will hold that no such cause or excuse exists and remand to the commissioner for the sole purpose of assessing penalties under section 86.13. See Christensen, 554 N.W.2d at 261.

(3) Reasonable causes or excuses include (a) a delay for the employer to investigate the claim, Christensen, 554 N.W.2d at 260; Kiesecker v. Webster City Meats, Inc., 528 N.W.2d at 109, 111 (Iowa 1995); or (b) the employer had a reasonable basis to contest the claim—the "fairly debatable" basis for delay. See Christensen, 554 N.W.2d at 260 (holding two-month delay to obtain employer's own medical report reasonable under the circumstances).

(4) For the purpose of applying section 86.13, the benefits that are underpaid as well as late-paid benefits are subject to penalties, unless the employer establishes reasonable and probable cause or excuse. Robbennolt, 555 N.W.2d at 237 (underpayment resulting from application of wrong wage base; in absence of excuse, commissioner required to apply penalty).

> If we were to construe [section 86.13] to permit the avoidance of penalty if any amount of compensation benefits are paid, the purpose of the penalty statute would be frustrated. For these reasons, we conclude section 86.13 is applicable when payment of compensation is not timely . . . or when the full amount of compensation is not paid.

Id.

(5) For purposes of determining whether there has been a delay, payments are "made" when (a) the check addressed to a claimant is mailed (Robbennolt, 555 N.W.2d at 236; Kiesecker, 528 N.W.2d at 112), or (b) the check is delivered personally to the claimant by the employer or its workers' compensation insurer. Robbennolt, 555 N.W.2d at 235.

(6) In determining the amount of penalty, the commissioner is to consider factors such as the length of the delay, the number of delays, the information available to the employer regarding the employee's injury and wages, and the employer's past record of penalties. Robbennolt, 555 N.W.2d at 238.

(7) An employer's bare assertion that a claim is "fairly debatable" does not make it so. A fair reading of Christensen and Robbennolt, makes it clear that the employer must assert facts upon which the commissioner could reasonably find that the claim was "fairly debatable." See Christensen, 554 N.W.2d at 260.

Meyers v. Holiday Express Corp., 557 N.W.2d 502 (Iowa 1996).

Weekly compensation payments are due at the end of the compensation week. Robbennolt, 555 N.W.2d 229, 235.

Penalty is not imposed for delayed interest payments. Davidson v. Bruce, 593 N.W.2d 833, 840 (Iowa App. 1999). Schadendorf v. Snap-On Tools Corp., 757 N.W.2d 330, 338 (Iowa 2008).

When an employee's claim for benefits is fairly debatable based on a good faith dispute over the employee's factual or legal entitlement to benefits, an award of penalty benefits is not appropriate under the statute. Whether the issue was fairly debatable turns on whether there was a disputed factual dispute that, if resolved in favor of the employer, would have supported the employer's denial of compensability. Gilbert v. USF Holland, Inc., 637 N.W.2d 194 (Iowa 2001).

Defendants contend a penalty is not appropriate in this case for several reasons. Defendants contend payment of temporary benefits and medical bills was delayed due to their inability to get claimant's September of 2013 MRI. Defendants also contend the delay in paying benefits to claimant was due in part to claimant. (Defendants' post-hearing brief, pp. 7-10)

It is true claimant's father filled out a report, in July of 2014, that claimant did not have a previous similar injury. (Ex. 5, p. 2) However, the record suggests Hames knew claimant had a prior back strain that had resolved by October of 2013. (Tr. p. 100)

It is also true once defendant insurer knew of a prior lumbar MRI taken in September of 2013, they had difficulty obtaining the records from the September of 2013 MRI report.

However, the record indicates defendant insurer had, by mid-July, a record from Dr. Abernathey indicating claimant's back injury of July of 2014 was work related. (Ex. 5, p. 2) Defendant insurer had claimant's July of 2014 MRI by late August of 2014. (Tr. p. 133) By late January of 2015 defendants had a copy of the September of 2013 MRI. (Tr. p. 135) Ms. Liveringhouse testified that in January of 2015 she knew the September of 2013 MRI was benign and that the July of 2014 MRI showed a herniated disc. (Tr. p. 138) Ms. Liveringhouse testified as of April 8, 2015 defendant EMC had all the information it needed to resolve claimant's claim. (Tr. p. 141) Defendant EMC had Dr. Neiman's opinions regarding permanent impairment in June of 2015. Benefits were not paid until on or about August 28, 2015. (Ex. 6, p. 14)

By December of 2015 defendant EMC knew Dr. Abernathey found claimant had a work-related back injury. As of January of 2015 defendant EMC knew claimant's September of 2013 MRI was unremarkable, and that the July of 2014 MRI showed a herniated disc at the L5-S1 levels. Defendant EMC should have paid claimant's medical bills and temporary disability benefits at least by that time. They did not. There is no good reason why they delayed payment of claimant's temporary benefits until late August of 2015. By April of 2015 EMC had everything it needed regarding claimant's claim. (Tr. p. 141) In June of 2015 defendant EMC had Dr. Neiman's rating. They did not pay permanent partial disability benefits until late August of 2015. There is no reasonable excuse given why permanent partial disability benefits were delayed for approximately two months. Given this record, a 50 percent penalty is appropriate regarding delay in payment of temporary benefits and permanent partial disability benefits.

Claimant was due temporary benefits from July 8, 2014 through July 27, 2014. This is approximately three weeks. Claimant's rate is $519.16 per week. Defendants are liable for penalty for delay of payment of temporary benefits of $778.74 ($519.16 x 3 weeks x 50%).

Dr. Neiman found, in June of 2015, claimant had a 15 percent permanent impairment to the body as a whole and had work restrictions. Defendants paid permanent partial disability benefits based on a 5 percent rating in late August of 2015. As noted, there is no rationale why permanent partial disability benefits were delayed for approximately two months. Defendants are liable for a penalty of $6,489.50 for failure to timely pay permanent partial disability benefits ($519.16 x 25 weeks x 50%).

Based on the above, defendants are liable for a total of $7,268.24 in penalty benefits ($6,489.50 + $778.74)

ORDER

THEREFORE IT IS ORDERED:

That defendants shall pay claimant one hundred fifty (150) weeks of permanent partial disability benefits at the rate of five hundred nineteen and 16/100 dollars ($519.16) per week commencing on July 28, 2014.

That defendants shall pay accrued weekly benefits in a lump sum.

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

That defendants shall receive a credit for benefits previously paid.

That defendants shall pay claimant a penalty of seven thousand two-hundred sixty-eight and 24/100 dollars ($7,268.24) for the delayed payment of temporary and permanent partial disability benefits.

That defendants shall pay costs.

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

Signed and filed this 16th day of August, 2016.

JAMES F. CHRISTENSON
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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**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.