BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

FILED
MAR 06 2018
WORKERS' COMPENSATION

MARK HOSKEY, Claimant, vs. KINZE MANUFACTURING INC., Employer, and SENTRY CASUALTY CO., Insurance Carrier, Defendants.	File No. 5056163 ARBITRATION DECISION Head Note No.: 1803

STATEMENT OF THE CASE

Mark Hoskey, claimant, filed a petition in arbitration seeking workers' compensation benefits from Kinze Manufacturing, Inc. the employer and Sentry Casualty Co., the insurance carrier as defendants. The arbitration hearing was held on October 26, 2017. The parties submitted post-hearing briefs on December 11, 2017, and the matter was considered fully submitted on that date.

The evidentiary record includes: Joint Medical Exhibits JE1 through JE4, Claimant's Exhibits 5 through 22 and Defendants' Exhibits A through H. At hearing, claimant provided testimony.

The parties filed a hearing report at the commencement of the arbitration hearing. On the hearing report, the parties entered into various stipulations. All of those stipulations were accepted and are hereby incorporated into this arbitration decision and no factual or legal issues relative to the parties' stipulations will be raised or discussed in this decision. The parties are now bound by their stipulations.

I note that at the time of the hearing, there was an issue as to medical expenses, medical mileage and reimbursement under Iowa Code section 85.39 concerning an independent medical evaluation (IME). However, these issues were subsequently resolved, are no longer in dispute and will therefore not be addressed in this decision. (Defendant's Post-Hearing Brief, page 2)

ISSUES

The parties submitted the following disputed issues for resolution:

1. The extent of permanent partial disability.

2. Costs

FINDINGS OF FACT

After a review of the evidence presented, I find as follows:

Claimant was 53 years old at the time of the hearing. He is married with two teenage children.

Claimant is right-hand dominant. (Transcript p. 17)

Claimant graduated from high school in 1982, with about a "B" average. (Exhibit 15) His class rank was 18 out of 65, placing him just outside the top 25 percent in his class. (Ex. 16, p. 209) He has no other formal education, although he has experience welding and passed a welding test with the defendant employer.

1) WORK HISTORY

Claimant has previously worked doing farm work, including harvesting and planting and operating related machinery. He has worked for an agricultural company mixing and delivering fertilizer and repairing equipment. He has worked for a logging company using a chainsaw and operating a log skidder. He has also worked at a meat packing company. Claimant did not believe that he could return to his job at the agricultural company, the logging company or the meat packing plant due to the physical nature of the jobs and his current limitations.

Claimant began working for the defendant employer in 1996 as a welder. (Tr. p. 19; Ex. 13, p. 196) His job as a welder required him to lift up to 50 pounds several times per week, depending on the job. (Tr. p. 20; Ex. 10, p. 182) The quality of his work was considered by the employer to be "satisfactory" prior to the date of his work injury on May 26, 2015. (Ex. 13, p. 194) After the work injury, claimant returned to full time work and was placed on a job that did not require manual lifting. (Tr. p. 73) This was a non-light duty regular job that fit within claimant's restrictions. He worked until he was permanently laid off on June 26, 2015, as a result of a reduction in workforce. (Ex. 8, p. 180; Ex. 14, p. 200; Tr. p. 23) Over 200 people were laid off when claimant's employment came to an end. (Tr. p. 73) He was earning $22.70 per hour when he was laid off. (Tr. p. 30) Claimant testified that he did not believe he could return to any of the work he did at Kinze, including the lighter job that he was doing when he was laid off due to his shoulder and arm condition because "[f]atigue sets in real quick." (Tr. p. 27)

After claimant was laid off he had a functional capacity evaluation (FCE) on February 14, 2017. Thereafter, claimant began looking for work. He presented a job search log that contained 10 job contacts from March 31, through July 28. (Ex. 12) Nine of the ten jobs identified are listed as "NH" or not hiring. One employer, Precision Sheet Metal was hiring, but it is noted that claimant was "NQ" or not qualified. (Id.) Claimant limited his job search to an area within 20 miles of his home town of Chelsea, Iowa, despite his former job with the defendant employer being 40 miles from his home. (Tr. p. 80) He testified that he would not be able to afford a long commute based on what he believed would be minimum wage. (Id.) He estimated that his hometown of Chelsea had a population of about 100 people. (Id.)

2) CURRENT EMPLOYMENT

In 1993 claimant purchased a 150 acre farm and he continued operating his farm at the time of the hearing. He described it as a grain and cattle farm, with about 12 to 15 head of cattle. (Tr. p. 33) He raises crops primarily to feed the cattle, selling occasional excess grain. (Tr. p. 34) He works from 20 to 50 hours per week on the farm depending on the time of year, with the 50-hour weeks occurring during planting and harvest seasons. (Id.) When claimant was evaluated by John Kuhnlein, D.O. for an independent medical evaluation, he reported working 40 to 50 hours per week on the farm and having 20 head of cattle. (Ex. 5, p. 153) He testified that after this work injury he primarily is limited to driving tractors, combines or "whatever I can do." (Id.) He said that he can still climb up into a tractor. (Tr. p. 35) He gets help from his father, brother and son on the farm and relies on them to do heavy lifting. (Id.) Claimant testified that he does not really make much money farming. (Tr. p. 35; Ex. 9) He does not recall ever earning more than $30,000.00 annually from his farming operation and further stated that he often shows a loss from farming against his regular income. (Tr. pp. 40, 76; Ex. 9)

Also, at the time of the hearing, claimant was working part-time for Central Iowa Firewood, a job contact that was not on his job search log described above. He began working for this employer on June 19, 2017. This employer is located about 15 miles from claimant's home. (Tr. p. 81) He operates a skid steer and a forklift and will also "straighten out the wood on top of the racks." (Tr. p. 44) He is paid $9.00 per hour and stated in his answer to interrogatory that he works 10 to 25 hours per week. (Ex. 8, p. 180; Tr. p. 45) Central Iowa Firewood is owned by Luke Squires. (Tr. p. 43) Claimant testified that he spoke to Luke Squires because "it was requested that I was to be looking for a job trying to find one, and wondered if he could help me out." (Tr. p. 44) The work involves going into the timber, bringing logs out, cutting them, splitting them and kiln drying them and then packaging small cut pieces of firewood into small bundles that are sold at grocery and convenience stores. (Id.) Claimant testified that he sometimes works over 30 hours per week. (Tr. p. 45) He agreed that from August to early October of 2017, he was working 30 to 40 hours per week or more. (Tr. p. 63) He agreed that the handwritten notes at Exhibit G, pages 1-3 are the hours that he turned in, which indicate that he occasionally worked 50 or more hours per week. (Ex. G, pp. 1-3) As noted above, he also testified that his farming operation takes about 20

hours per week on average when he is not planting or harvesting. Therefore, claimant would appear to be working between the two jobs, as little as 30 hours and as much as 60 to 70 hours per week. Claimant testified that he has never been reprimanded for performance issues at Central Iowa Firewood, and he continues to get more hours. (Tr. pp. 65-66)

Claimant plans to continue to work at Central Iowa Firewood and at home on his farm. (Tr. p. 46)

3) PRIOR MEDICAL CONDITION

Claimant had his right tibial tendon debrided on February 29, 2000. (Ex. 2, p. 9) There is only a mention of this in the records with no apparent ongoing problems.

Claimant stated in his answers to interrogatories that in 2013, he was seen by Dr. Willis at Steindler Orthopedic and had carpal tunnel release surgeries on both arms. (Ex. 8, p. 175; ex. 2, p. 3) He returned in March and April, 2015, complaining of difficulty with gripping, lifting, carrying and small object manipulation. (Ex. 2, p. 3) He was prescribed occupational therapy, which helped. (Ex. 2, pp. 5, 7) At the time of his work injury, which is the basis of his petition in this matter, he was not working under any restrictions from the carpal tunnel condition. (Tr. p. 88)

4) THE WORK INJURY

The parties have stipulated that claimant sustained an injury that arose out of and in the course of his employment on May 26, 2015. (Hearing Report, p. 1) On that day, claimant stated that he was welding and a part that he was working on started to fall. He reached out to grab it, but he could not stop it from falling and it pulled his right arm. (Tr. p. 20) The part weighed about 30 pounds. He had a "little bit of pain right away," but the pain was not something that he was immediately concerned about until approximately an hour later or so, then the "pain increased" and he had weakness in his arm. (Id.) The pain was in his upper right arm and shoulder. He finished his regular work shift and reported the injury to his employer. He was sent by the employer to Mercy Occupational Health and was seen on the following day. (Tr. pp. 21-22)

5) POST-INJURY MEDICAL TREATMENT

On The day after the work injury, claimant was seen at Mercy Occupational Health. (Tr. p. 22) Following that appointment, he was returned to work on light duty and did physical therapy, but without improvement. He was then referred for an orthopedic evaluation. (Ex. 1, p. 2)

On June 19, 2015, claimant was seen by Mark Mysnyk, M.D., at the Steindler Orthopedic Clinic and reported pain in his posterior neck and into his scapula, with some tingling down his arm. (Ex. 2, p. 9) Dr. Mysnyk stated that a rotator cuff tear would explain some symptoms, but not the weakness in his biceps and triceps. He recommended a neurological evaluation. (Ex. 2, p. 10)

On June 26, 2015, as stated above, claimant was permanently laid-off from the defendant's employment, as part of a reduction in workforce and was not called back to work. (Tr. p. 23)

On September 28, 2015, claimant had a CT myelogram and fluoroscopy of his cervical spine which showed "multilevel degenerative changes . . . worst at C5/C6." (Ex. 3, p. 17) He had a CT of the shoulder which "did not reveal any labral or rotator cuff tearing." (Ex. 3, pp. 19-20) He was referred to neurosurgery at the University of Iowa for consultation. (Ex. 3, p. 20)

On October 23, 2015, Chandan Reddy, M.D. at the University of Iowa stated his impression as "[l]ikely upper trunk brachial plexus stretch injury, with evidence of recovery." (Ex. 3, p. 39) The conclusion was that "[w]e do not think the neck is contributing at this point. He has minimal symptoms from the neck." (Ex. 3, p. 40) It was noted that recovery would continue but may take six months to one year. (Id.) He was maintained on work restrictions of: no lifting over 10 pounds; no pushing/pulling with his right arm; and, no sustained overhead activity with his right arm. (Ex. 3, p. 44)

On January 22, 2016, Dr. Reddy recommended continued therapy and noted that "[h]is injury will take a long time to recover, up to possibly 2 years from the time of initial injury." (Ex. 3, p. 57) He was noted to make continued progress and his lifting restriction was raised to 15 pounds. (Id.)

On April 15, 2016, Dr. Reddy noted that claimant had neuropathic pain that was limiting his physical therapy. (Ex. 3, p. 71) He was started on gabapentin, and if that did not prove helpful, a pain clinic consultation would follow. (Id.) Claimant had leg swelling associated with the gabapentin and was switched to tramadol and referred to the Pain Clinic. (Ex. 3, p. 78)

On August 15, 2016, claimant was seen at the Pain Clinic at the University of Iowa. (Ex. 3, p. 82) He rated his average pain at 3-4/10, with the worst pain at 7/10 and the least at 3/10. It was noted that his pain was "likely secondary to nerve regeneration" following the brachial plexus stretch injury. (Ex. 3, p. 86) His medication was modified and he was referred to a clinical pain psychologist. (Ex. 3, pp. 86, 87)

On September 29, 2016, claimant complained of burning pain in his right shoulder, neck and biceps. (Ex. 3, p. 104) Although on October 21, 2016, he was noted to be improving with therapy. (Ex. 3, p. 109) Claimant was to return in three months. Claimant testified that he last saw Dr. Reddy in January or February, presumably of 2017. (Tr. p. 28)

6) Opinions Concerning Permanent Impairment

On December 8, 2016, Dr. Reddy signed his agreement to a letter drafted by defense counsel indicating that it was his opinion that claimant's stretch injury was not appropriate for surgery. (Ex. 3, p. 119) He also indicated that a functional capacity

evaluation (FCE) would reveal appropriate restrictions and that if an FCE were to occur in the future, he would "follow the recommendations outlined in the FCE and adjust [the] current temporary work restriction recommendations." (Ex. 3, p. 119) He also stated that claimant's work on his farm indicates an "ability to perform various work functions." (Id.)

On February 14, 2017, claimant underwent an FCE concerning his upper extremities with Athletico Physical Therapy. (Ex. 4, pp. 139 – 152) He was described as having given a consistent and acceptable effort during the evaluation. The conclusion was that considering the job title of welder at Kinze Manufacturing, claimant did not demonstrate the physical capabilities and tolerances to perform all the essential job functions. (Ex. 4, pp. 139, 152) There is included in the report a table with activities and performance levels as follows:

Activity	Client Performance
19" to Waist Lift (Occasional)	10.00#
Waist to Shoulder Lift (Occasional)	10.00#
Unilateral 19" to Waist Lift Left (Occasional)	50.00#
Unilateral 19" to Waist Lift Right (Occasional)	0.00#
Unilateral Waist to Shoulder Lift Left (Occasional)	25.00#
Unilateral Waist to Shoulder Lift Right (Occasional)	0.00#
Unilateral Overhead Lift Left (Occasional)	25.00#
19" to Waist Lift (Frequent)	10.00#
Waist to Shoulder Lift (Frequent)	5.00#
Unilateral 19" to Waist Lift Left (Frequent)	50.00#
Unilateral 19" to Waist Lift Right (Frequent)	0.00#
Unilateral Waist to Shoulder Lift Left (Frequent)	25.00#
Unilateral Waist to Shoulder Lift Right (Frequent)	0.00#
Unilateral Overhead Lift Left (Frequent)	20.00#
Forward Reach	Frequent

Overhead Reach	Avoid
Grip	Occasional
Pinch	Occasional

(Ex. 4, pp. 139, 140)

There was no follow-up opinion from Dr. Reddy after the FCE to confirm his opinions concerning permanent restrictions. There is no opinion from Dr. Reddy regarding an impairment rating. (Tr. p. 28)

On August 15, 2017, claimant was seen for an independent medical evaluation (IME) with Dr. Kuhnlein at the request of claimant's counsel. (Ex. 5, p. 1) Dr. Kuhnlein issued his report on September 1, 2017. He reviewed claimant's job duties at the defendant employer and his work on his farm. (Ex. 5, p. 153) He also noted that claimant had started working at Central Iowa Firewood (Squires Logging) driving a skid loader and working about 10 to 30 hours per week. (Ex. 5, p. 156) Dr. Kuhnlein reviewed claimant's medical history. (Ex. 5, pp. 154-156, 157) He discussed claimant's current symptoms and noted that he did "not have any formal work restrictions." (Ex. 5, p. 156) Dr. Kuhnlein conducted a physical examination of claimant and noted his objective findings. (Ex. 5, pp. 157, 158) He diagnosed claimant with "[r]ight shoulder likely upper trunk brachial plexus stretch injury." (Ex. 5, p. 159) He noted that claimant denied any prior right shoulder problems and the lack of any medical evidence regarding the same. Dr. Kuhnlein found claimant reached MMI on February 14, 2017, the date of the upper extremity FCE. He assigned a permanent impairment rating pursuant to the American Medical Association Guides for the Evaluation of Permanent Impairment, Fifth Edition, of 17 percent to the whole person. (Ex. 5, p. 160) He arrived at this percentage primarily based on claimant's loss of strength. He then recommended restrictions to include both arms based on the reduced ability of the right and as a preventative measure for the left. Those restrictions were stated as: lifting occasionally 10 pounds from floor to waist; 20 pounds from waist to shoulder and no work above shoulder height. He should not crawl or work on ladders and grip or grasp only occasionally with the right hand. (Ex. 5, p. 160)

No other physicians have provided an opinion concerning a permanent impairment rating. (Tr. p. 28) I accept the impairment rating as assigned by Dr. Kuhnlein.

Concerning permanent restrictions, I generally accept the restrictions assigned by Dr. Kuhnlein, but I also note that claimant has demonstrated his physical abilities by his continued farming operation involving both grain and cattle and his work at Central Iowa Firewood operating equipment and straightening out pieces of firewood on top of the racks.

7) Vocational Rehabilitation and Assessments

On September 11, 2017, Barbara Laughlin, M.A., of Laughlin Management issued an Employability Assessment concerning claimant. However, she was not asked to assist claimant with seeking employment. (Ex. 16, p. 213) She reviewed medical records, claimant's answers to interrogatories, his income tax returns from 2011 through 2015, claimant's education and his strong class rank of 18 out of 65 students. (Ex. 16, pp. 205, 209) Based on the FCE results, she opined that claimant has 90.4 percent occupational loss involving the same kind of work activities and the same industries that claimant had worked in previously. (Ex. 16, pp. 211-212) Based on Dr. Kuhnlein's restrictions, she opined that claimant has a 96.2 percent occupational loss that involves the same kind of work activities in the same industries that he had worked in previously. (Id.) However, she also states that Dr. Kuhnlein's restrictions do not fit well into her computerized transferable skill analysis. (Id.) Ms. Laughlin stated, "[i]t is my opinion that Mr. Hoskey is so limited that his ability to obtain employment in any well known branch of the labor market consistent with his restrictions is nil." (Ex. 16, p. 215)

However, it is troubling to the undersigned that Ms. Laughlin does not discuss or counterbalance her opinions in view of claimant's current employment which appears to be near or in excess of full-time hours between his farm operation and his work at Central Iowa Firewood. I cannot accept Ms. Laughlin's opinion at face value when claimant has obtained and is maintaining employment contrary to her conclusions about his ability to do so. I therefore give little weight to her report.

On July 5, 2017, claimant was seen by Iowa Vocational Rehabilitation for an intake. Claimant apparently reported that since his layoff with the defendant employer he "has not worked since he lost his job." (Ex. 19, p. 225) He also apparently reported that he "lost his job due to his injury." (Id.) Neither of those statements is corroborated by the evidence in this case. Claimant continued to work on his farm and he started working at Central Iowa Firewood in June, 2017. Also, he lost his job as part of a reduction in workforce with over 200 people being laid off, not due specifically to his injury. Finally, he reported a 10-pound lifting restriction with his right arm, which is only partly accurate considering either the FCE results or the restrictions assigned by Dr. Kuhnlein. (Id.) It appears that Iowa Vocational Rehabilitation was continuing to gather medical records and that no specific plans or opinions had been established at the time of the hearing. (Ex. 19)

8) Current Condition

Claimant testified that he currently has pain in his upper arm and shoulder at a level of about 2 or 3 out of 10. (Tr. p. 47) He stated that he has difficulty doing things above shoulder height, lifting and gripping with his right hand. (Tr. p. 48) He stated that he now does personal hygiene with his left hand and the pain affects his sleep. (Id.) He no longer bow hunts because of difficulty pulling the bow string, nor does he gun hunt because of the impact of the gun on his shoulder. (Tr. p. 49)

9) Additional Findings

It does not appear that claimant's farming income has been directly impacted by his work injury. His hourly wage from Kinze Manufacturing to Central Iowa Firewood has dropped from $22.70 per hour to $9.00 per hour. (Tr. p. 30; Ex. 8, p. 180)

After the work injury, claimant returned to work for the employer on a job that used a magnet and a hoist that he was able to perform. When asked if that was an accommodation for his work injury, he replied "[w]ell, it wasn't really an – I wouldn't say it was really an accommodation. That was how they did that job. I was just put on that job because I didn't have to manually lift." (Tr. p. 73) In other words, claimant was placed in that job as an accommodation, but the job itself was a regular position, which was not a make-work job or modified job. He then lost that job due to a reduction in workforce lay off, not due to his inability to perform the job as a result of his work injury. Although claimant testified that he would not be able to return to any job that he has done at Kinze, including this lighter duty work that did not require manual lifting, it is not clear to the undersigned what has changed from the time that claimant was performing the job to the time of the hearing. The medical records generally seem to indicate slow improvement of his condition. Indeed he reported less pain at hearing than he had in most of the previous medical reports. At hearing, he described his pain as 2-3/10. (Tr. p. 47)

Claimant acknowledged that all of his physicians have encouraged him to continue working and that continued work will benefit the healing process. (Tr. p. 86)

Considering industrial disability, claimant's age, his limited education, his significant functional impairment, his restrictions as assigned by Dr. Kuhnlein, and his reduced hourly wage, would suggest a higher level of industrial disability.

However, claimant's intelligence, his continued employment and his physical abilities demonstrated through his current employment and his continued farming operation involving both grain and cattle and the fact that claimant lost his job due to a reduction in workforce and not due to his inability to perform any aspect of the job that he was working at that time, would suggest a lower level of industrial disability.

Considering all of the above and all other appropriate factors for the assessment of industrial disability, I find that claimant has sustained 35 percent industrial disability.

The parties have stipulated that claimant was paid 38 weeks of permanent partial disability benefits prior to the date of the hearing and that the appropriate rate is $548.57. (Hearing Report)

CONCLUSIONS OF LAW

1) Industrial Disability

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, 593; 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. However, consideration must also be given to the injured worker's medical condition before the injury, immediately after the injury and presently; the situs of the injury, its severity, and the length of healing period; the work experience of the injured worker prior to the injury, after the injury, and potential for rehabilitation; the injured workers' qualifications intellectually, emotionally and physically; the worker's earning before and after the injury; the willingness of the employer to re-employ the injured worker after the injury; the worker's age, education, and motivation; and, finally the inability because of the injury to engage in employment for which the worker is best fitted. Thilges v. Snap-On Tools Corp., 528 N.W.2d 614, 616 (Iowa 1995); 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).

There are no weighting guidelines that indicate how each of the factors is to be considered. Neither does a rating of functional impairment directly correlate to a degree of industrial disability to the body as a whole. In other words, there are no formulae which can be applied and then added up to determine the degree of industrial disability. It therefore becomes necessary for the deputy or commissioner to draw upon prior experience as well as general and specialized knowledge to make the finding with regard to degree of industrial disability. See Christensen v. Hagen, Inc., Vol. 1 No. 3 Industrial Commissioner Decisions, 529 (App. March 26, 1985); Peterson v. Truck Haven Cafe, Inc., Vol. 1 No. 3 Industrial Commissioner Decisions, 654 (App. February 28, 1985).

Assessments of industrial disability involve a viewing of loss of earning capacity in terms of the injured workers' present ability to earn in the competitive labor market without regard to any accommodation furnished by one's present employer. Quaker Oats Co. v. Ciha, 552 N.W.2d 143, 158 (Iowa 1996); Thilges v. Snap-On Tools Corp., 528 N.W.2d 614 (Iowa 1995).

In assessing an unscheduled, whole-body injury case, the claimant's loss of earning capacity is determined as of the time of the hearing based upon industrial disability factors then existing. The commissioner does not determine permanent

disability, or industrial disability, based upon anticipated future developments. Kohlhaas v. Hog Slat, Inc., 777 N.W.2d 387 (Iowa 2009).

As stated above and for the reasons there given, I have determined that claimant has sustained 35 percent industrial disability.

2) Costs

The final issue is an assessment of costs.

Claimant identified in his post-hearing brief that the only cost issue left at this time is the report of vocational expert Barbara Laughlin and he requests reimbursement not for the examination/interview portion of the bill, but only for the $550.00 associated with the preparation of the report. Claimant states that this is the portion that may be awarded as a cost under Des Moines Area Regional Transit Authority v. Young, 867 N.W.2d 839 (Iowa 2015).

Assessment of costs is a discretionary function of this agency. Iowa Code section 86.40. Costs are to be assessed at the discretion of the deputy commissioner or workers' compensation commissioner hearing the case. 876 IAC 4.33. I conclude that claimant was successful in this claim and therefore exercise my discretion and assess costs against the defendants in this matter for $550.00 as requested by claimant for the expense associated with the vocational expert's report.

ORDER

IT IS THEREFORE ORDERED:

Defendants shall pay claimant industrial disability benefits of one hundred seventy-five (175) weeks, beginning on the stipulated commencement date of February 15, 2017, until all benefits are paid in full.

Defendants shall be entitled to a credit for all weekly benefits paid to date. The parties have stipulated that defendants are entitled to a credit of thirty-eight (38) weeks.

All weekly benefits shall be paid at the stipulated rate of five hundred forty-eight and 57/100 dollars ($548.57) per week.

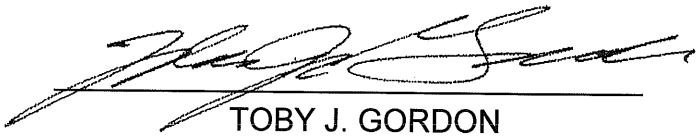
All accrued benefits shall be paid in a lump sum.

Defendants shall pay interest on any accrued weekly benefits pursuant to Iowa Code section 85.30.

Defendants shall reimburse claimant for costs of five hundred fifty and 00/100 dollars ($550.00) as stated above.

Defendants shall file subsequent reports of injury (SROI) as required by this agency pursuant to rules 876 IAC 3.1(2) and 876 IAC 11.7.

Signed and filed this 6th day of March, 2018.



TOBY J. GORDON
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

Copies to:

Corey J. L. Walker
Attorney at Law
208 North 2nd Ave. West
Newton, IA 50208
corey@walklaw.com

Benjamin R. Merrill
Elizabeth A. Coonan
Attorneys at Law
666 Grand Ave., Ste. 2000
Des Moines, IA 50309-2510
merrill@brownwinick.com
coonan@brownwinick.com

TJG/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.