

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

ROBERT THOMAS,

Claimant,

vs.

ARCHER DANIELS MIDLAND, CO.,

Employer,
Self-Insured,
Defendant.

File No. 5064599.01

ORDER NUNC PRO TUNC

On November 2, 2021, the undersigned filed an arbitration decision in this case. On November 8, 2021, defendant filed a motion for order nunc pro tunc. In the motion, defendants state that the parties "jointly identified" certain "scrivener's errors". It is clear that the undersigned made a series of scrivener's errors, particularly as it relates to certain dates which the parties stipulated to in the Hearing Report. The undersigned also neglected to memorialize certain findings in the Order section of the decision.

Errors Related to the Dates of Healing Period and Temporary Partial Disability (TPD):

There are a series of typographical errors related to dates of healing period and temporary partial disability on pages 16 and 20. The undersigned also set forth an incorrect commencement date for permanent partial disability (PPD) on pages 18 and 20. The correct dates are:

Healing Period. The claimant was seeking healing period benefits from February 10, 2017, through April 15, 2018, and July 1, 2018, through December 16, 2018. Benefits were awarded for both of those healing periods at the correct weekly rate of seven hundred ninety-six and 19/100 dollars (\$796.19).

TPD. The claimant was seeking TPD for a period from April 16, 2018, through June 3, 2018, and December 17, 2018, through February 18, 2019. TPD benefits were awarded only for the period of April 16, 2018 through June 3, 2018, using the correct average weekly wage of one thousand four hundred nineteen and no/100 dollars (\$1,419.00).

PPD commencement date. I found the appropriate commencement date for permanent partial disability (PPD) is December 17, 2018.

All typographical errors in the decision on pages 16, 18 and 20, which are contrary to this are hereby amended by this Order.

Failure to Include Portions of Decision in the Order:

The defendant correctly observes that the undersigned awarded medical expenses, including medical mileage, in addition to IME expenses in the body of the decision, but failed to include specific language regarding those awards in the Order section. The Order section is hereby amended to include the following:

Defendant shall satisfy the amounts of medical expenses in Claimant's Exhibit 5 which are outstanding, have been paid by a provider/insurer or claimant's behalf, or have been paid by claimant out-of-pocket. Defendant shall reimburse claimant directly only for payments he made out-of-pocket. Defendant shall reimburse/pay any remaining amounts owed to a provider/insurer directly the applicable provider/insurer.

Defendant shall pay mileage expenses to the claimant in the amount of two thousand two hundred sixty-four and 54/100 dollars (\$2,264.54), as set forth in Claimant's Exhibit 6.

Defendant shall reimburse the claimant for the IME report of Dr. Dwyer in the amount of one thousand four hundred fifty and no/100 dollars (\$1,450.00).

Defendant shall pay costs in the amount of one thousand thirteen and 95/100 dollars (\$1,013.95).


The phrase, "nunc pro tunc" means "now for then." See: Black's Law Dictionary, page 1218 (Revised 4th Edition 1968). The definition in Black's Law Dictionary further provides: "A phrase applied to acts allowed to be done after the time when they should be done, with a retroactive effect, i.e. with the same effect as if regularly done." Black's at 1218. A nunc pro tunc order "is not for the purpose of correcting judicial thinking, a judicial conclusion, or a mistake of law." Headley v. Headley, 172 N.W.2d 104, 108 (Iowa 1969). The nunc pro tunc order can be employed to correct obvious errors or to make an order conform to the judge's original intent. Graber v. District Court for Washington County, 410 N.W.2d 224, 229 (Iowa 1987). Brinson v. Spee Dee Delivery Service, No. 8-754/06-2074 (Iowa App. November 13, 2008).

I find that the Arbitration Decision filed on November 2, 2021, contained a series of typographical errors as set forth above. These errors should be corrected by an Order Nunc Pro Tunc.

THEREFORE, IT IS ORDERED:

Defendant's motion for Order Nunc Pro Tunc is sustained. The November 2, 2021, Arbitration Decision is hereby amended as set forth above.

Signed and filed this 10th day of November, 2021.



JOSEPH L. WALSH
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Anthony Olson (via WCES)

Peter Thill (via WCES)