

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

LEANN BRODERSON,

Claimant,

vs.

REM IOWA,

Employer,

and

NEW HAMPSHIRE INS. CO.,

Insurance Carrier,
Defendants.

File No. 5055853.01

A P P E A L

D E C I S I O N

Head Notes: 1402.40; 1803; 1804; 2501;
2602; 2907; 4000.2; 4100;
5-9998

Claimant LeAnn Broderson appeals from an arbitration decision filed on February 3, 2022. Defendants REM Iowa, employer, and its insurer, New Hampshire Insurance Company, respond to the appeal. The case was heard on August 30, 2021, and it was considered fully submitted in front of the deputy workers' compensation commissioner on October 8, 2021.

In the arbitration decision, the deputy commissioner found claimant carried her burden of proof to establish she sustained permanent disability of her neck and low back as a result of the stipulated work injury which occurred on May 5, 2014. The deputy commissioner found claimant reached maximum medical improvement (MMI) for the work injury on October 19, 2020. The deputy commissioner found claimant sustained 55 percent industrial disability as a result of the work injury, which entitles claimant to receive 275 weeks of permanent partial disability benefits commencing on the stipulated commencement date of October 19, 2020. The deputy commissioner found claimant failed to prove she is permanently and totally disabled under either the traditional industrial disability analysis or under the odd-lot analysis. The deputy commissioner found claimant failed to prove she is entitled to receive penalty benefits from defendants for an unreasonable delay in the payment of weekly benefits. The deputy commissioner found claimant is entitled to payment by defendants for certain requested past medical expenses totaling \$10,752.80 itemized in claimant's Exhibit 13. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$487.55.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant reached MMI for the work injury on October 19, 2020, and in finding claimant is not entitled to a running award of healing period benefits. In the alternative, if it is found on appeal that claimant has reached MMI, claimant asserts the deputy commissioner erred in finding claimant sustained 55 percent industrial disability as a result of the work injury and in finding claimant failed to prove she is permanently and totally disabled under the traditional industrial disability analysis and also under the odd-lot analysis. Claimant asserts the deputy commissioner erred in finding claimant is not entitled to receive penalty benefits from defendants for an unreasonable delay in the payment of weekly benefits.

Defendants assert on appeal that the arbitration decision should be affirmed in its entirety.

Those portions of the proposed arbitration decision pertaining to issues not raised on appeal are adopted as part of this appeal decision.

I have performed a de novo review of the evidentiary record and the detailed arguments of the parties, and 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 February 3, 2022, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis of all 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 proved she sustained permanent disability of her neck and low back as a result of the work injury. I affirm the deputy commissioner's finding that claimant reached MMI for the work injury on October 19, 2020. I affirm the deputy commissioner's finding that claimant sustained 55 percent industrial disability as a result of the work injury. I affirm the deputy commissioner's finding that claimant failed to prove she is permanently and totally disabled because of the work injury under either the traditional industrial disability analysis or under the odd-lot analysis. I affirm the deputy commissioner's finding that claimant failed to prove she is entitled to receive penalty benefits from defendants. I affirm the deputy commissioner's finding that claimant is entitled to payment by defendants for the requested past medical expenses totaling \$10,752.80 itemized in claimant's Exhibit 13. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$487.55.

I affirm the deputy commissioner's findings, conclusions, and analysis regarding the above-stated issues.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on February 3, 2022, is affirmed in its entirety.

Defendants shall pay claimant two hundred seventy-five (275) weeks of permanent partial disability benefits at the stipulated weekly rate of two hundred seventy-eight and 21/100 dollars (\$278.21) commencing on the stipulated commencement date of October 19, 2020.

Defendants shall receive credit for all benefits previously paid.


Defendant shall pay accrued weekly benefits in a lump sum together with interest at the rate of ten percent for all weekly benefits payable and not paid when due which accrued before July 1, 2017, and all interest on past due weekly compensation benefits accruing on or after July 1, 2017, shall be payable at an annual rate equal to the one-year treasury constant maturity published by the federal reserve in the most recent H15 report settled as of the date of injury, plus two percent, See Gamble v. AG Leader Technology, File No. 5054686 (App. Apr. 24, 2018).

Defendants shall pay the requested past medical expenses totaling ten thousand seven hundred fifty-two and 80/100 dollars (\$10,752.80) itemized in claimant's Exhibit 13, or defendants shall otherwise satisfy and hold claimant harmless for those medical expenses.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of four hundred eighty-seven and 55/100 dollars (\$487.55), and claimant shall pay 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 on this 12th day of July, 2022.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Matthew Leddin (via WCES)

Edward Rose (via WCES)