

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

KARL ESTERMANN,

Claimant,

vs.

ALLEGIS GROUP,

Employer,

and

INDEMNITY INS CO. OF NORTH
AMERICA,Insurance Carrier,
Defendants.

File No. 5065220.01

A P P E A L

D E C I S I O N

: Head Notes: 1402.40; 1804; 2907; 5-9998

Defendants Allegis Group, employer, and its insurer, Indemnity Insurance Company of North America, appeal from an arbitration decision filed on May 18, 2022. Claimant Karl Estermann responds to the appeal. The case was heard on January 24, 2022, and it was considered fully submitted in front of the deputy workers' compensation commissioner on February 18, 2022.

In the arbitration decision, the deputy commissioner found claimant met his burden of proof to establish he is permanently and totally disabled as a result of the stipulated January 17, 2017, work injury, and the deputy commissioner found Claimant is entitled to receive permanent total disability benefits commencing on May 31, 2019 and continuing during the period of claimant's permanent total disability.

Defendants assert on appeal that the deputy commissioner erred in finding claimant proved he is permanently and totally disabled.

Claimant asserts 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 May 18, 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.

Some of the findings by the deputy commissioner in the arbitration decision were based on the deputy commissioner's findings regarding claimant's credibility. The deputy commissioner found claimant was a credible witness. Defendants assert claimant was not credible. I find the deputy commissioner correctly assessed claimant's credibility. While I performed a de novo review on appeal, I give considerable deference to findings of fact which are impacted by the credibility findings, expressly or impliedly made, regarding claimant by the deputy commissioner who presided at the arbitration hearing. I find nothing in the record in this matter which would cause me to reverse the deputy commissioner's findings regarding claimant's credibility.

I affirm the deputy commissioner's finding that claimant proved he is permanently and totally disabled as a result of the work injury and I affirm the deputy commissioner's finding that claimant is entitled to receive permanent total disability benefits commencing on May 31, 2019, and continuing during the period of claimant's permanent total disability.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on May 18, 2022, is affirmed in its entirety.

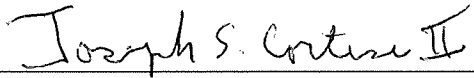
Defendants shall pay claimant permanent total disability benefits, at the stipulated weekly rate of three hundred forty-three and 96/100 dollars (\$343.96), commencing on May 31, 2019, and continuing during the period of claimant's permanent total disability.

Defendants shall pay accrued weekly benefits in a lump sum together with interest at the rate of 10 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 Tech., File No. 5054686 (App. Apr. 24, 2018).

Pursuant to rule 876 IAC 4.33, defendants 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 15th day of September, 2022.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

David Drake (via WCES)

Robert Gainer (via WCES)