

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

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PHILLIP AHRENS,

Claimant,

vs.

EARWOOD FAMILY PROPERTIES,

Employer,  
Uninsured,  
Defendant.

File No. 5066611

ORDER NUNC PRO TUNC

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On January 14, 2022, claimant filed a motion for nunc pro tunc requesting that the Arbitration Decision of December 27, 2021, be modified as it is the claimant's belief that a scrivener's error was made on page 4 of the decision.

Page 4 of the Arbitration Decision reads:

"While he testified that having employees would increase the cost of business, this response is not credible."

Claimant argues that the correct statement should read:

"While he testified that having employees would not increase the cost of business, this response is not credible."

In support of this position, claimant points to page 101 of the original transcript.

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. Dist. Court for Washington Cty., 410 N.W.2d 224, 229 (Iowa 1987). Brinson v. Spee Dee Delivery Service, No. 8-754/06-2074 (Iowa App. November 13, 2008).

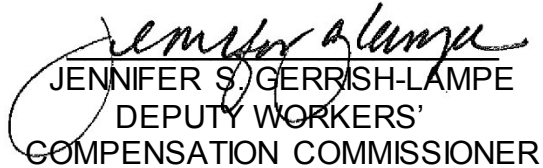
There is no resistance on file.

Claimant's motion is granted. The testimony of the defendant was not credible when he said that employees did not increase the cost of his business. A scrivener's error was made on page 4 of the Arbitration Decision and the decision should be modified to accurately reflect the judicial thinking.

THEREFORE IT IS ORDERED, claimant's motion is granted. Page 4 of the Arbitration Decision shall read as follows:

While he testified that having employees would not increase the cost of business, this response is not credible.

Signed and filed this 4<sup>th</sup> day of February, 2022.

  
JENNIFER S. GERRISH-LAMPE  
DEPUTY WORKERS'  
COMPENSATION COMMISSIONER

The parties have been served, as follows:

Michelle Schneiderheinze (via WCES)

Clarissa Rietveld (via WCES)

Michael Galvin (via WCES)

Paul Powers (via WCES)

Lori Scardina Utsinger (via WCES)