

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

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PAULA SCHMITZ,

Claimant,

vs.

TYSON FRESH MEATS, INC.,

Employer,  
Self-Insured,  
Defendant.

File Nos. 5043359; 5043360

REHEARING

DECISION

**FILED**

**NOV 18 2016**

WORKERS' COMPENSATION

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Claimant Paula Schmitz filed an application for rehearing, and in the alternative, a motion to enlarge findings and conclusions under Iowa Rule of Civil Procedure 1.904(2) (application). The motion is considered an application for rehearing under rule 876 IAC 4.24. Defendants do not resist the application. The application is considered.

Claimant contends, in the application, the appeal decision erred in taxing the costs of the transcript to claimant.

The arbitration decision and the transcripts indicate this matter was heard over the course of two hearings. (Arbitration Decision, page 1) Following the first hearing, defendants requested a copy of the hearing transcript and filed a copy with this agency on or about April 1, 2014. Following the second hearing, the Deputy Workers' Compensation Commissioner ordered a copy of the transcript. (Transcript, Vol. II, pg. 88)

The arbitration decision did not order the cost of the transcript as a cost to be paid by claimant. (Arb. Dec., p. 21)

The record indicates defendants provided this agency with a copy of the transcript from the first hearing and defendants were ordered to provide a copy of a transcript for the second hearing. The cost of the transcript was not taxed against claimant at the arbitration hearing. Based on this record, claimant should not be required to bear the cost of paying for the transcript on appeal.

For this reason, the final sentence of the order in the appeal decision should be changed to read as follows:

"Pursuant to Rule 876 IAC 4.33, the parties shall pay their own costs at the arbitration and appeal levels".

ORDER

Therefore it is ordered that claimant's application is granted.

The appeal decision is supplemented as discussed above.

The appeal decision remains the same in all other respects.

Signed and filed this 18<sup>th</sup> day of November, 2016.



JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

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