

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

ITHICA JONES,

Claimant,

vs.

AEROTEK, INC.,

Employer,

and

INDEMNITY INSURANCE COMPANY
OF N.A.,Insurance Carrier,
Defendants.

File No. 5068857.02

A P P E A L
D E C I S I O NHead Notes: 1402.40; 1803; 2502; 2907;
3002; 4000.2; 5-9998,

Defendants Aerotek, Inc., employer, and its insurer, Indemnity Insurance Company of North America, appeal from an arbitration decision filed on April 28, 2021. Claimant Ithica Jones responds to the appeal. The case was heard on December 16, 2020, and it was considered fully submitted in front of the deputy workers' compensation commissioner on January 15, 2021.

In the arbitration decision, the deputy commissioner found that as a result of the stipulated work injury which occurred on June 19, 2018, claimant sustained 50 percent permanent disability of his left arm, which entitles claimant to receive 125 weeks of permanent partial disability (PPD) benefits. The deputy commissioner found claimant's PPD benefits should commence on August 13, 2020. The deputy commissioner found claimant's weekly benefit rate for the work injury is \$548.42. The deputy commissioner awarded penalty benefits in the amount of \$5,484.20 for delays by defendants in paying PPD benefits. The deputy commissioner awarded claimant reimbursement for his independent medical examination (IME) along with medical mileage and costs. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$100.00.

Defendants assert on appeal it should be found claimant sustained less than 50 percent permanent disability of his left arm. Defendants assert the deputy commissioner adopted the wrong commencement date for claimant's PPD benefits. Lastly, defendants assert the deputy commissioner's award of penalty benefits is excessive.

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 a 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 April 28, 2021, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis of all of 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 sustained 50 percent permanent disability of his left arm as a result of the work injury. I affirm the deputy commissioner's finding that claimant's PPD benefits should commence on August 13, 2020. I affirm the deputy commissioner's finding that claimant's weekly benefit rate for the work injury is \$548.42. I affirm the deputy commissioner's award of penalty benefits in the amount of \$5,484.20 for delays by defendants in paying PPD benefits. I affirm the deputy commissioner's finding that claimant is entitled to reimbursement for the cost of Dr. Bansal's IME. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$100.00.

I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

ORDER

IT IS THEREFORE ORDERED that arbitration decision filed on April 28, 2021, is affirmed in its entirety.

Defendants shall pay claimant one hundred twenty-five (125) weeks of permanent partial disability benefits at the weekly rate of five hundred forty-eight and 42/100 dollars (\$548.42) commencing on August 13, 2020.

Defendants shall receive credit for sixty-nine point four two nine (69.429) weeks of permanent partial disability benefits previously paid, as stipulated by the parties.

Defendants shall pay accrued weekly benefits in a lump sum together with interest 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.

Defendants shall pay claimant a penalty of five thousand four hundred eighty-four and 20/100 dollars (\$5,484.20).

Defendants shall reimburse claimant two thousand nine hundred eighty-four and 00/100 dollars (\$2,984.00) for Dr. Bansal's IME pursuant to Iowa Code section 85.39.

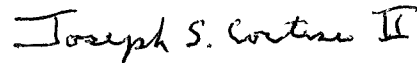
Defendants shall reimburse claimant one thousand three hundred one and 65/100 dollars (\$1,301.65) for mileage costs.

Defendants shall reimburse claimant one hundred twenty-six and 00/100 dollars (\$126.00) for time off work to attend a medical visit.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of \$100.00, and 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 23rd day of September, 2021.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

Nick Platt (via WCES)

Peter Thill (via WCES)