

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

RICK C. LAW,  
Claimant,

vs.

HY-VEE, INC., d/b/a HY-VEE  
DISTRIBUTION,

Employer,

and

EMC PROPERTY & CASUALTY CO.

Insurance Carrier,  
Defendants.

**FILED**

**JUN 20 2018**

WORKERS' COMPENSATION

File No. 5055461

A P P E A L  
D E C I S I O N

Head Note Nos: 1402.40; 1803; 5-9998

Claimant Rick C. Law appeals from an arbitration decision filed on August 7, 2017. Defendants Hy-Vee, Inc., d/b/a Hy-Vee Distribution, employer, and its insurer, EMC Property & Casualty Company, cross-appeal. The case was heard on March 14, 2017, and it was considered fully submitted in front of the deputy workers' compensation commissioner at the conclusion of the arbitration hearing.

The deputy commissioner found claimant sustained 55 percent industrial disability as a result of the stipulated injury which arose out of and in the course of claimant's employment with defendant-employer on September 10, 2013, which entitles claimant to receive 275 weeks of permanent partial disability (PPD) benefits, commencing on January 10, 2017. The deputy commissioner found claimant failed to carry his burden of proof that he is permanently and totally disabled as a result of the work injury. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$100.00.

Claimant asserts on appeal that the deputy commissioner erred in finding claimant sustained 55 percent industrial disability as a result of the work injury. Claimant asserts the award for industrial disability should be reversed and claimant asserts he should be awarded permanent total disability benefits.

Defendants assert on cross-appeal that the deputy commissioner erred in finding claimant sustained 55 percent industrial disability as a result of the work injury. Defendants assert the award for industrial disability should be reduced substantially.

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

Having performed a de novo review of the evidentiary record and the detailed arguments of the parties, 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 August 7, 2017, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis 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 55 percent industrial disability as a result of the work injury. I affirm the deputy commissioner's finding that claimant failed to carry his burden of proof that he is permanently and totally disabled as a result of the work injury. 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 the arbitration decision filed on August 7, 2017, is affirmed in its entirety.

Defendants shall pay claimant two hundred seventy-five (275) weeks of permanent partial disability benefits commencing on January 10, 2017, at the stipulated weekly rate of five hundred ninety-four and 14/100 dollars (\$594.14).


Defendants shall be entitled to a credit for all benefits paid to date.

Defendants 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).

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of \$100.00, and the parties shall split 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 20<sup>th</sup> day of June, 2018.

  
\_\_\_\_\_  
JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

Copies To:

Willis J. Hamilton  
Attorney at Law  
PO Box 188  
Storm Lake, IA 50588  
[willis@hamiltonlawfirm.com](mailto:willis@hamiltonlawfirm.com)

Dennis R. Riekenberg  
Attorney at Law  
9290 West Dodge Rd., Ste. 302  
Omaha, NE 68114-3320  
[driekenberg@ctagd.com](mailto:driekenberg@ctagd.com)