

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

KRYSTAL FOSTER,

Claimant,

vs.

EAST PENN MANUFACTURING  
CO. INC.,

Employer,

and

SENTINEL INS. CO.,

Insurance Carrier,  
Defendants.

File No. 5061342

A P P E A L

D E C I S I O N

Headnotes: 1402.30; 1801; 2501; 2907;  
4000.2; 5-9998

Defendants East Penn Manufacturing Co., Inc., employer, and its insurer, Sentinel Insurance Co., appeal from an arbitration decision filed on April 19, 2019. Claimant Krystal Foster responds to the appeal. The case was heard on February 15, 2019, and it was considered fully submitted in front of the deputy workers' compensation commissioner on March 15, 2019.

In the arbitration decision, the deputy commissioner found claimant carried her burden of proof to establish that the April 3, 2018, surgery was causally related to the November 26, 2016, work injury. The deputy commissioner found claimant is entitled to receive temporary total disability benefits from defendants during her period of recovery from January 25, 2018, through April 12, 2018. The deputy commissioner found claimant is entitled to receive reimbursement for the medical expenses associated with that treatment. The deputy commissioner found claimant is entitled to receive penalty benefits in the amount of \$2,390.41 for an unreasonable delay by defendants in the payment of weekly benefits. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding.

Defendants assert on appeal that the deputy commissioner erred in finding the April 3, 2018, surgery was causally related to the November 26, 2016, work injury. Defendants assert the deputy commissioner erred in awarding claimant temporary total disability benefits from January 25, 2018, through April 12, 2018. Defendants assert the deputy commissioner erred in finding claimant is entitled to receive penalty benefits.

Claimant asserts on appeal that the arbitration decision should be affirmed in its entirety.

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

I performed a de novo review of the evidentiary record and the detailed arguments of the parties. Pursuant to Iowa Code sections 17A.15 and 86.24, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed on April 19, 2019, 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. I affirm the deputy commissioner's finding claimant proved the April 3, 2018, surgery was causally related to the November 26, 2016, work injury. I affirm the deputy commissioner's finding that claimant is entitled to receive temporary total disability benefits during her period of recovery between January 25, 2018, and April 12, 2018. I affirm the deputy commissioner's finding that claimant is entitled to receive reimbursement for the medical expenses associated with the April 3, 2018, surgery. I affirm the deputy commissioner's award of penalty benefits for defendants' unreasonable delay in the payment of weekly benefits. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding.

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

#### ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on April 19, 2019, is affirmed in its entirety.

Defendants shall pay claimant temporary total disability benefits at the weekly rate of four hundred thirty-four and 62/100 dollars (\$434.62) from January 25, 2018, through April 12, 2018.

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).

Defendants shall pay all medical costs related to claimant's April 3, 2018, surgery.

Defendants shall pay claimant penalty benefits in the amount of two thousand three hundred ninety and 41/100 dollars (\$2,390.41).

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding, 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 6<sup>th</sup> day of May, 2020.

*Joseph S. Cortese II*

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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

The parties have been served as follows:

Randall Schueller      Via WCES

Tiernan T. Siems      Via WCES

Sara A. Lamme      Via WCES