BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

RUSS AMUNDSON,

Claimant,

vs.

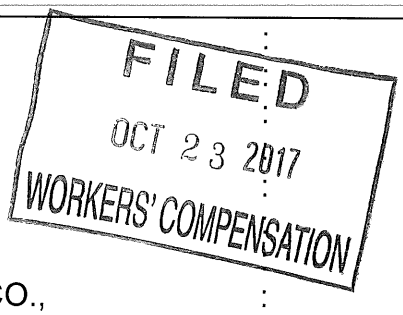
VAN DIEST SUPPLY CO.,

Employer,

and

EMC RISK SERVICES, LLC,

Insurance Carrier,
Defendants.



File Nos. 5059189, 5062416

ARBITRATION

DECISION

Head Note Nos.: 1402.40; 1801; 1803 2701

STATEMENT OF THE CASE

Claimant, Russell Amundson, filed a petition in arbitration seeking workers' compensation benefits from Van Diest Supply Company (Van Diest), employer and EMC Risk Services, LLC, insurer, both as defendants. This case was heard in Des Moines, Iowa, on June 1, 2017 with a final submission date of June 23, 2017.

In this case, claimant had an alleged injury to his right arm on November 11, 2015, and then, later on, the same day, an alleged injury to his right knee. Claimant filed two petitions for each injury. Because both injuries occurred on the same date, these petitions were initially filed under one file number.

To avoid confusion, the undersigned segregated the two injuries to two separate file numbers, although both injuries occurred on the same date.

Claimant's injury to his right upper extremity is File No. 5062416.

Claimant's injury to his right knee is File No. 5059189.

ISSUES

Regarding claimant's injury to his upper extremity (File No. 5062416):

1. Did the injury result in a temporary disability.

2. The extent of claimant's entitlement to permanent partial disability benefits.

3. The commencement date for benefits.

4. Credit.

5. Whether claimant is entitled to alternate medical care under Iowa Code section 85.27.

6. Penalty.

Regarding claimant's injury to the right lower extremity (File No. 5059189):

1. Whether the injury resulted in a permanent disability; and if so,

2. The extent of claimant's entitlement to permanent partial disability benefits.

The parties filed a hearing report at the commencement of the arbitration hearing. On the hearing report, the parties entered into various stipulations. All of those stipulations were accepted and are hereby incorporated into this arbitration decision and no factual or legal issues relative to the parties' stipulations will be raised or discussed in this decision. The parties are now bound by their stipulations.

FINDINGS OF FACT

Claimant began working for Van Diest in the spring of 2013. Van Diest sells products for agriculture.

On November 11, 2015, claimant felt a sharp pain in his right elbow while turning tank valves. Later that day, claimant reported twisting his knee while stepping between tanks at work. (Joint Exhibit 1, page 1)

Claimant was evaluated by J.X. Latella, D.O., on November 13, 2015. Claimant was given temporary work restrictions and treated with medication and an elbow splint. (Jt. Ex. 2, p. 2)

On November 14, 2015, claimant accepted a job with Farmer's Coop (later known as "Landers"). (Ex. I, p. 40)

On November 17, 2015, claimant voluntarily quit employment with Van Diest. (Ex. H, pp. 33-34)

On November 20, 2015, claimant underwent a physical for his job with Landers. Claimant was found to have no limitations to working. (Jt. Ex. 3, pp. 5-6) Claimant did not report any problems with his right arm or knee at the time of the examination. (Ex. C, pp. 13-14)

On November 23, 2015, Dr. Latella returned claimant to full duty work. (Jt. Ex. 2, p. 4)

On December 31, 2015, claimant was evaluated by ZeHui Han, M.D. Claimant had complaints of right elbow pain. Claimant was assessed as having right lateral epicondylitis. Dr. Han related claimant's injury to his accident at work on November 11, 2015. (Jt. Ex. 4, pp. 1-13)

On January 26, 2016, claimant was evaluated by Benjamin Beecher, M.D., for right knee pain. An MRI was recommended. (Jt. Ex. 5, pp. 36-39)

Claimant's MRI did not show a meniscus tear. Claimant was referred to physical therapy. (Jt. Ex. 5, pp. 39-40)

On February 16, 2016, claimant underwent surgery with Dr. Han. Surgery consisted of right lateral epicondylitis debridement and repair of a ligament tear. (Jt. Ex. 4, p. 14)

Claimant was evaluated by Dr. Beecher on May 5, 2016. Claimant had continued knee pain. Claimant was found to be at maximum medical improvement (MMI). (Jt. Ex. 5, pp. 43-44)

On May 20, 2016, Dr. Han returned claimant to work with no restrictions. (Jt. Ex. 4, p. 29) Claimant was found to be at MMI and released from care by Dr. Han on June 24, 2016. (Jt. Ex. 4, pp. 30-31)

In a September 20, 2016 letter, Dr. Han found claimant had a 10 percent permanent impairment for the right upper extremity, using Table 16-32 and 16-34 of the AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition. (Jt. Ex. 4, p. 32)

On November 23, 2016, claimant underwent an independent medical evaluation (IME) with Mark Kirkland, D.O., regarding the right knee. Claimant complained of occasional right knee pain with activity. Claimant was assessed as having a resolved sprain of the medial patellofemoral ligament on the right knee. Dr. Kirkland recommended a home exercise program for the knee. Dr. Kirkland did not recommend any permanent restrictions. (Ex. A)

On or about December 9, 2016, claimant quit his job with Landers. (Ex. I, pp. 43-45)

On February 24, 2017, claimant applied for a job with Hemmen Moving Company. (Ex. J, pp. 45-47)

In a February 28, 2017 report, Sunil Bansal, M.D., gave his opinions of claimant's condition following an IME. Claimant complained of pain in the right elbow and right knee. Dr. Bansal agreed with Dr. Han that claimant's MMI date for his right elbow was June 24, 2016. He believed claimant's MMI date for the right knee was May 16, 2016. He found claimant had a 4 percent permanent impairment to the right elbow. He also found claimant had a 5 percent permanent impairment to the right knee based on Table 17-31 of the AMA Guides. (Ex. 1, pp. 1-12)

In an April 27, 2017 letter, written by defendants counsel, Dr. Beecher gave his opinions of claimant's condition to his right knee. Dr. Beecher did not believe claimant sustained any permanent impairment to the right knee. Dr. Beecher indicated he reviewed Dr. Bansal's IME report. He opined Dr. Bansal's reliance on Table 17-31 was incorrect as this section determines permanent impairment based upon a direct trauma. Claimant's history of the right knee injury was an injury that occurred due to a twisting accident. Dr. Beecher also did not believe this table should be used to evaluate permanent impairment as this section determines permanent impairment based on crepitus. Dr. Beecher's notes indicate claimant had no crepitus. (Ex. D, pp. 10-12)

Claimant testified he continues to have right elbow problems. He said he has pain and loss of strength in the right arm. Claimant testified he did not request any additional treatment from Van Diest since he was released from care by Dr. Han.

Claimant testified he still has pain in the medial portion of the right knee. He testified he twisted his right knee and hit it on a tank at Van Diest. He testified that walking for extended periods of time and squatting aggravates his knee pain.

CONCLUSIONS OF LAW

The first issue to be determined is if claimant's injury to the right upper extremity resulted in a temporary disability.

The party who would suffer loss if an issue were not established has the burden of proving that issue by a preponderance of the evidence. Iowa R. App. P. 6.14(6).

Healing period compensation describes temporary workers' compensation weekly benefits that precede an allowance of permanent partial disability benefits. Ellingson v. Fleetguard, Inc., 599 N.W.2d 440 (Iowa 1999). Section 85.34(1) provides that healing period benefits are payable to an injured worker who has suffered permanent partial disability until the first to occur of three events. These are: (1) the worker has returned to work; (2) the worker medically is capable of returning to substantially similar employment; or (3) the worker has achieved maximum medical recovery. Maximum medical recovery is achieved when healing is complete and the extent of permanent disability can be determined. Armstrong Tire & Rubber Co. v.

Kubli, Iowa App., 312 N.W.2d 60 (Iowa 1981). Neither maintenance medical care nor an employee's continuing to have pain or other symptoms necessarily prolongs the healing period.

(1) When an injured worker has been unable to work during a period of recuperation from an injury that did not produce permanent disability, the worker is entitled to temporary total disability benefits during the time the worker is disabled by the injury. Those benefits are payable until the employee has returned to work, or is medically capable of returning to work substantially similar to the work performed at the time of injury. Section 85.33(1).

Claimant seeks temporary partial disability benefits from February 16, 2016 through February 28, 2016, and healing period benefits from March 1, 2016 through March 27, 2016.

Claimant had right elbow surgery on February 16, 2014. (Jt. Ex. 4, p. 14) Dr. Han allowed claimant to return to work at modified duty on February 16, 2016. (Jt. Ex. 4, p. 16)

Claimant was also allowed to return to work with modified duty on February 26, 2016, March 10, 2016, March 21, 2016, and April 20, 2016. (Jt. Ex. 4, pp. 17, 20, 23, 26)

An employer's acceptance of voluntary quit from suitable employment constitutes a rejection of suitable work on that date and any future date; TTD is only available if claimant undergoes further treatment and is removed from all employment; once restricted duty is allowed, such healing period would end. A rejection of suitable work cannot be cured by requesting a work assignment from the prior employer. Schutjer v. Algona Manor Care Center, 780 N.W. 2d 549 (Iowa 2010); Carillo v. Sam's Club, File No. 5028491 (App. July 13, 2011).

Iowa Code section 85.33(3) provides in pertinent part:

> If an employee is temporarily, partially disabled and the employer for whom the employee was working at the time of injury offers to the employee suitable work consistent with the employee's disability the employee shall accept the suitable work, and be compensated with temporary partial benefits. If the employee refuses to accept the suitable work with the same employer, the employee shall not be compensated with temporary partial, temporary total, or healing period benefits during the period of the refusal.

The Iowa Supreme Court held there is a two-part test to determine eligibility under section 85.33(3): "(1) whether the employee was offered suitable work, (2) which the employee refused. If so, benefits cannot be awarded, as provided in section 85.33(3)." Schutjer v. Algona Manor Care Center, 780 N.W.2d 549, 559 (Iowa 2010). "If

the employer fails to offer suitable work, the employee will not be disqualified from receiving benefits regardless of the employee's motive for refusing the unsuitable work." Neal v. Annett Holdings, Inc., 814 N.W.2d 512 (Iowa 2012).

Prior agency case law has also considered section 85.33(3) and applied the Supreme Court precedent as follows:

> The court has opined that an employer's acceptance of an employee's voluntary quit from suitable employment is a rejection of suitable work on that date and any future date. Schutjer v. Algona Manor Care Center, 780 N.W.2d 549, 559 (Iowa 2010). The court does not identify any mechanism for curing a refusal of a voluntary quit as ordered within the arbitration decision. Under the court's holding it can only be possible for claimant to receive temporary disability benefits if she undergoes further treatment and is removed from all employment for a period of healing. Once restricted duty is allowed, such healing period would end. In summation, the employer is not required to make work available to cure the workers' prior voluntary rejection of suitable work.

Carillo v. Sam's Club, File No. 5028491 (Appeal July 13, 2011).

In brief, an employer's acceptance of a voluntary quit from suitable employment constitutes a rejection of suitable work on that date and any future date. Temporary benefits are only available if claimant undergoes further treatment and is removed from all employment. Once restricted duty is allowed, such healing period would end. A rejection of suitable work cannot be cured by requesting a work assignment from the prior employer. Schutjer v. Algona Manor Care Center, 780 N.W. 2d 549 (Iowa 2010); Carillo v. Sam's Club, File No. 5028491 (App. July 13, 2011).

Van Diest accommodated claimant's restrictions when claimant was still employed with Van Diest. Claimant voluntarily quit Van Diest on November 17, 2015. Agency case law in Carillo indicates that once restricted duty is allowed, temporary benefits end. The record indicates that claimant was offered restricted duty beginning on February 16, 2016. For this reason, claimant failed to carry his burden of proof he is entitled to temporary benefits of any kind on or after February 16, 2016.

The next issue to be determined is if claimant sustained a permanent disability to his right knee injury.

The party who would suffer loss if an issue were not established has the burden of proving that issue by a preponderance of the evidence. Iowa R. App. P. 6.14(6).

The claimant has the burden of proving by a preponderance of the evidence that the alleged injury actually occurred and that it both arose out of and in the course of the employment. Quaker Oats Co. v. Ciha, 552 N.W.2d 143 (Iowa 1996); Miedema v. Dial Corp., 551 N.W.2d 309 (Iowa 1996). The words "arising out of" referred to the cause or

source of the injury. The words "in the course of" refer to the time, place, and circumstances of the injury. 2800 Corp. v. Fernandez, 528 N.W.2d 124 (Iowa 1995). An injury arises out of the employment when a causal relationship exists between the injury and the employment. Miedema, 551 N.W.2d 309. The injury must be a rational consequence of a hazard connected with the employment and not merely incidental to the employment. Koehler Electric v. Wills, 608 N.W.2d 1 (Iowa 2000); Miedema, 551 N.W.2d 309. An injury occurs "in the course of" employment when it happens within a period of employment at a place where the employee reasonably may be when performing employment duties and while the employee is fulfilling those duties or doing an activity incidental to them. Ciha, 552 N.W.2d 143.

The claimant has the burden of proving by a preponderance of the evidence that the injury is a proximate cause of the disability on which the claim is based. A cause is proximate if it is a substantial factor in bringing about the result; it need not be the only cause. A preponderance of the evidence exists when the causal connection is probable rather than merely possible. George A. Hormel & Co. v. Jordan, 569 N.W.2d 148 (Iowa 1997); Frye v. Smith-Doyle Contractors, 569 N.W.2d 154 (Iowa App. 1997); Sanchez v. Blue Bird Midwest, 554 N.W.2d 283 (Iowa App. 1996).

The question of causal connection is essentially within the domain of expert testimony. The expert medical evidence must be considered with all other evidence introduced bearing on the causal connection between the injury and the disability. Supportive lay testimony may be used to buttress the expert testimony and, therefore, is also relevant and material to the causation question. The weight to be given to an expert opinion is determined by the finder of fact and may be affected by the accuracy of the facts the expert relied upon as well as other surrounding circumstances. The expert opinion may be accepted or rejected, in whole or in part. St. Luke's Hosp. v. Gray, 604 N.W.2d 646 (Iowa 2000); IBP, Inc. v. Harpole, 621 N.W.2d 410 (Iowa 2001); Dunlavey v. Economy Fire and Cas. Co., 526 N.W.2d 845 (Iowa 1995). Miller v. Lauridsen Foods, Inc., 525 N.W.2d 417 (Iowa 1994). Unrebutted expert medical testimony cannot be summarily rejected. Poula v. Siouxland Wall & Ceiling, Inc., 516 N.W.2d 910 (Iowa App. 1994).

Dr. Beecher treated claimant for an extended period of time. Dr. Beecher found claimant had no permanent impairment to his right knee. (Jt. Ex. 4, p. 45; Ex. B, pp. 10-12)

Dr. Kirkland examined claimant one time for an IME. He also found claimant had no permanent impairment to his right knee. (Ex. A, pp. 6-9)

Dr. Bansal evaluated claimant once for an IME. Dr. Bansal found claimant had a 5 percent permanent impairment to the right lower extremity. (Ex. 1, p. 11) Dr. Bansal used Table 17-31 to arrive at an impairment rating. According to the rating used by Dr. Bansal, for the patellafemoral joint, the rating would apply to an individual with a history of trauma and crepitus. (Guides at page 544, Table 17-31) Claimant did testify at hearing that he banged his knee on tanks when he twisted his knee. However,

numerous records in the file indicate claimant only twisted his knee and did not have a traumatic incident. (Ex. 1; Ex. 2; Ex. 5, pp. 36; Ex. 8, p. 61; Ex. A) Even the history in Dr. Bansal's report refers only to a twisting injury. (Ex. 1, pp. 6-7)

The record indicates a knee injury occurred by a twisting activity and did not involve trauma. The table used by Dr. Bansal to define permanent impairment requires trauma. For this reason, Dr. Bansal's rating is found not convincing.

Dr. Beecher and Dr. Kirkland both found claimant had no permanent impairment to his right knee. Dr. Bansal's opinion regarding permanent impairment is not convincing. Given this record, claimant has failed to carry his burden of proof he sustained a permanent impairment from his right knee injury.

The next issue to be determined is the extent of claimant's entitlement to permanent partial disability benefits to the right upper extremity.

Under the Iowa Workers' Compensation Act, permanent partial disability is compensated either for a loss or loss of use of a scheduled member under Iowa Code section 85.34(2)(a)-(t) or for loss of earning capacity under section 85.34(2)(u). The extent of scheduled member disability benefits to which an injured worker is entitled is determined by using the functional method. Functional disability is "limited to the loss of the physiological capacity of the body or body part." Mortimer v. Fruehauf Corp., 502 N.W.2d 12, 15 (Iowa 1993); Sherman v. Pella Corp., 576 N.W.2d 312 (Iowa 1998). The fact finder must consider both medical and lay evidence relating to the extent of the functional loss in determining permanent disability resulting from an injury to a scheduled member. Terwilliger v. Snap-On Tools Corp., 529 N.W.2d 267, 272-273 (Iowa 1995); Miller v. Lauridsen Foods, Inc., 525 N.W.2d 417, 420 (Iowa 1994).

Two experts provided ratings for claimant's right upper extremity. Dr. Han treated claimant for an extended period of time and performed surgery on claimant's right elbow. He opined claimant had a 10 percent permanent impairment to the right upper extremity. (Jt. Ex. 4, p. 32) Dr. Bansal evaluated claimant on one occasion for an IME. He found claimant had a 5 percent permanent impairment to the right upper extremity. (Ex. 1, p. 11)

The opinions of treating physicians are not to be given greater weight as a matter of law than other experts. However, as a factual matter, Dr. Han has far greater familiarity with claimant's history and his medical presentation than does Dr. Bansal. Based on this, I find that Dr. Han's opinion regarding permanent impairment are more convincing than Dr. Bansal. Claimant is due 25 weeks of permanent partial disability benefits to the right upper extremity. (250 weeks x 10 percent)

Dr. Han found claimant at MMI as of June 24, 2016. (Jt. Ex. 4, p. 30) Benefits shall commence on that date.

The next issue to be determined is if claimant is entitled to alternate medical care.

Iowa Code section 85.27(4) provides, in relevant part:

> For purposes of this section, the employer is obliged to furnish reasonable services and supplies to treat an injured employee, and has the right to choose the care. . . . The treatment must be offered promptly and be reasonably suited to treat the injury without undue inconvenience to the employee. If the employee has reason to be dissatisfied with the care offered, the employee should communicate the basis of such dissatisfaction to the employer, in writing if requested, following which the employer and the employee may agree to alternate care reasonably suited to treat the injury. If the employer and employee cannot agree on such alternate care, the commissioner may, upon application and reasonable proofs of the necessity therefor, allow and order other care.

An application for alternate medical care is not automatically sustained because claimant is dissatisfied with the care he has been receiving. Mere dissatisfaction with the medical care is not ample grounds for granting an application for alternate medical care. Rather, the claimant must show that the care was not offered promptly, was not reasonably suited to treat the injury, or that the care was unduly inconvenient for the claimant. Long v. Roberts Dairy Co., 528 N.W.2d 122 (Iowa 1995).

Claimant seeks alternate medical care for his right arm injury. There is no evidence claimant communicated, to defendants, any dissatisfaction with the care he received for his right arm. There is no evidence the care given to claimant for his right arm was not offered promptly. There is no evidence the care given for his right arm injury was not reasonable. No expert, including claimant's own IME physician, has opined claimant requires additional care. For these reasons, claimant has failed to carry his burden of proof he is entitled to alternate medical care.

The next issue to be determined is if defendants are entitled to a credit under Iowa Code section 85.34(5).

The parties stipulate claimant was paid 25 weeks of permanent partial disability benefits at the rate of $612.30 per week. The parties have also stipulated claimant's proper rate should be $577.90 per week. Defendants are due a credit for benefits previously paid concerning claimant's right upper extremity injury. Under Iowa Code section 85.34(5), defendants are also due a credit for an overpayment for any future weekly benefits due for a later injury to claimant.

The final issue to be determined is if defendants are liable for penalty under Iowa Code section 86.13.

In Christensen v. Snap-on Tools Corp., 554 N.W.2d 254 (Iowa 1996), and Robbennolt v. Snap-on Tools Corp., 555 N.W.2d 229 (Iowa 1996), the supreme court said:

> Based on the plain language of section 86.13, we hold an employee is entitled to penalty benefits if there has been a delay in payment unless the employer proves a reasonable cause or excuse. A reasonable cause or excuse exists if either (1) the delay was necessary for the insurer to investigate the claim or (2) the employer had a reasonable basis to contest the employee's entitlement to benefits. A "reasonable basis" for denial of the claim exists if the claim is "fairly debatable."

Christensen, 554 N.W.2d at 260.

The supreme court has stated:

> (1) If the employer has a reason for the delay and conveys that reason to the employee contemporaneously with the beginning of the delay, no penalty will be imposed if the reason is of such character that a reasonable fact-finder could conclude that it is a "reasonable or probable cause or excuse" under Iowa Code section 86.13. In that case, we will defer to the decision of the commissioner. See Christensen, 554 N.W.2d at 260 (substantial evidence found to support commissioner's finding of legitimate reason for delay pending receipt of medical report); Robbennolt, 555 N.W.2d at 236.
>
> (2) If no reason is given for the delay or if the "reason" is not one that a reasonable fact-finder could accept, we will hold that no such cause or excuse exists and remand to the commissioner for the sole purpose of assessing penalties under section 86.13. See Christensen, 554 N.W.2d at 261.
>
> (3) Reasonable causes or excuses include (a) a delay for the employer to investigate the claim, Christensen, 554 N.W.2d at 260; Kiesecker v. Webster City Meats, Inc., 528 N.W.2d at 109, 111 (Iowa 1995); or (b) the employer had a reasonable basis to contest the claim—the "fairly debatable" basis for delay. See Christensen, 554 N.W.2d at 260 (holding two-month delay to obtain employer's own medical report reasonable under the circumstances).
>
> (4) For the purpose of applying section 86.13, the benefits that are underpaid as well as late-paid benefits are subject to penalties, unless the employer establishes reasonable and probable cause or excuse. Robbennolt, 555 N.W.2d at 237 (underpayment resulting from application of wrong wage base; in absence of excuse, commissioner required to apply penalty).

> If we were to construe [section 86.13] to permit the avoidance of penalty if any amount of compensation benefits are paid, the purpose of the penalty statute would be frustrated. For these reasons, we conclude section 86.13 is applicable when payment of compensation is not timely . . . or when the full amount of compensation is not paid.

Id.

(5) For purposes of determining whether there has been a delay, payments are "made" when (a) the check addressed to a claimant is mailed (Robbennolt, 555 N.W.2d at 236; Kiesecker, 528 N.W.2d at 112), or (b) the check is delivered personally to the claimant by the employer or its workers' compensation insurer. Robbennolt, 555 N.W.2d at 235.

(6) In determining the amount of penalty, the commissioner is to consider factors such as the length of the delay, the number of delays, the information available to the employer regarding the employee's injury and wages, and the employer's past record of penalties. Robbennolt, 555 N.W.2d at 238.

(7) An employer's bare assertion that a claim is "fairly debatable" does not make it so. A fair reading of Christensen and Robbennolt, makes it clear that the employer must assert facts upon which the commissioner could reasonably find that the claim was "fairly debatable." See Christensen, 554 N.W.2d at 260.

Meyers v. Holiday Express Corp., 557 N.W.2d 502 (Iowa 1996).

Weekly compensation payments are due at the end of the compensation week. Robbennolt, 555 N.W.2d 229, 235.

Penalty is not imposed for delayed interest payments. Davidson v. Bruce, 593 N.W.2d 833, 840 (Iowa App. 1999). Schadendorf v. Snap-On Tools Corp., 757 N.W.2d 330, 338 (Iowa 2008).

When an employee's claim for benefits is fairly debatable based on a good faith dispute over the employee's factual or legal entitlement to benefits, an award of penalty benefits is not appropriate under the statute. Whether the issue was fairly debatable turns on whether there was a disputed factual dispute that, if resolved in favor of the employer, would have supported the employer's denial of compensability. Gilbert v. USF Holland, Inc., 637 N.W.2d 194 (Iowa 2001).

Claimant contends defendants are liable for a penalty for failure to timely pay claimant's permanent partial disability benefits. (Claimant's Post-Hearing Brief, p. 7)

The record indicates Dr. Han gave his opinion regarding claimant's permanent impairment and a letter dated September 20, 2016. (Jt. Ex. 4, p. 32)

In an October 7, 2016 e-mail, defendants' counsel indicated they had just received Dr. Han's rating and requested directions for payment. (Ex. N, p.59) Claimant's permanent partial disability check was issued on October 17, 2016. (Ex. 1A, p. 13a)

Given this record, a penalty is not appropriate.

ORDER

THEREFORE, IT IS ORDERED:

Regarding File No. 5062416 (Date of Injury, November 11, 2015 to the right upper extremity):

Defendants shall pay claimant twenty-five (25) weeks of permanent partial disability benefits at the rate of five hundred seventy-seven and 90/100 dollars ($577.90) per week commencing on June 24, 2016.

That defendants shall pay accrued weekly benefits in a lump sum.

That defendants shall pay interest on unpaid weekly benefits as ordered above and as set forth in Iowa Code section 85.30.

That defendants shall receive a credit for benefits previously paid and for an overpayment of benefits as detailed above.

That defendants shall pay costs.

Regarding File No. 5059189 (Date of Injury, November 11, 2015 to the right lower extremity):

Claimant shall take nothing from this file.

Regarding File Nos. 5062416 and 5059189:

That defendants shall file subsequent reports of injury as required by rule 876 IAC 3.1(2).

Signed and filed this 23rd day of October, 2017.

JAMES F. CHRISTENSON
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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Right to Appeal: This decision shall become final unless you or another interested party appeals within 20 days from the date above, pursuant to rule 876-4.27 (17A, 86) of the Iowa Administrative Code. The notice of appeal must be in writing and received by the commissioner's office within 20 days from the date of the decision. The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday. The notice of appeal must be filed at the following address: Workers' Compensation Commissioner, Iowa Division of Workers' Compensation, 1000 E. Grand Avenue, Des Moines, Iowa 50319-0209.