

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

STEVE SONGER,

Claimant,

vs.

XPO LOGISTICS FREIGHT, INC.,

Employer,

and

INDEMNITY INS. CO. OF NORTH
AMERICA,Insurance Carrier,
Defendants.

File No. 21013046.01

ORDER NUNC PRO TUNCT

FOR ORDER NUNC PRO TUNC, the undersigned states:

Defendants' attorney advises there is a scrivener's error in the second paragraph of the Order which appears on page 15 of the appeal decision filed in this matter on January 24, 2023. That paragraph currently reads as follows:

Defendants shall pay claimant 150 weeks of permanent partial disability benefits at the rate of six hundred twenty-three and 50/100 dollars (\$623.50) per week, commencing on December 27, 2021.

The undersigned actually intended that paragraph to read as follows:

Defendants shall pay claimant 125 weeks of permanent partial disability benefits at the rate of six hundred twenty-three and 50/100 dollars (\$623.50) per week, commencing on December 27, 2021.

The phrase, "nunc pro tunc" means "now for then." See: Black's Law Dictionary, page 1218 (Revised 4th Edition 1968). The definition in Black's Law Dictionary further provides: "A phrase applied to acts allowed to be done after the time when they should be done, with a retroactive effect, i.e. with the same effect as if regularly done." Black's at 1218. A nunc pro tunc order "is not for the purpose of correcting judicial thinking, a judicial conclusion, or a mistake of law." Headley v. Headley, 172 N.W.2d 104, 108 (Iowa 1969). The nunc pro tunc order can be employed to correct obvious errors or to make an order conform to the judge's original intent. Graber v. District Court for

Washington City, 410 N.W.2d 224, 229 (Iowa 1987). Brinson v. Spee Dee Delivery Service, No. 8-754/06- 2074 (Iowa App. November 13, 2008).

In this instance, my intent was to state in the second paragraph of the Order of the Appeal Decision the appropriate number of weeks of permanent partial disability benefits claimant is to receive from defendants. It is therefore appropriate to correct my scrivener's error in that paragraph.

ORDER

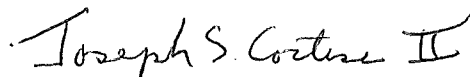
IT IS THEREFORE ORDERED:

The second paragraph of the Order which appears on page 15 of the appeal decision filed in this matter on January 24, 2023, is amended to read:

Defendants shall pay claimant 125 weeks of permanent partial disability benefits at the rate of six hundred twenty-three and 50/100 dollars (\$623.50) per week, commencing on December 27, 2021.

There are no other changes to the appeal decision filed in this matter on January 24, 2023.

Signed and filed this 27th day of January, 2023.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served as follows:

John Dougherty (via WCES)

Patrick Waldron (via WCES)

Cory Abbas (via WCES)