

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

MICHAEL ALFSTAD,

Claimant,

vs.

SECOND INJURY FUND OF IOWA,

Defendant.

File No. 5058197

A P P E A L

D E C I S I O N

Head Notes: 1402.40; 1803; 1803.1; 3202;
5-9998

Defendant Second Injury Fund of Iowa (the Fund) appeals from an arbitration decision filed on March 11, 2020. Claimant Michael Alfstad responds to the appeal. The case was heard on February 4, 2020, and it was considered fully submitted in front of the deputy workers' compensation commissioner on March 2, 2020.

The deputy commissioner found claimant carried his burden of proof to establish he is entitled to receive benefits from the Fund because the deputy commissioner found claimant proved he sustained a first qualifying scheduled member injury to his right upper extremity on or about January 1, 2003, and a second qualifying scheduled member injury to his right lower extremity, which was the stipulated work injury sustained on February 23, 2016. The deputy commissioner found the combination of the two injuries entitles claimant to receive 80 percent industrial disability from the Fund, which is 400 weeks of permanent partial disability (PPD) benefits, with the stipulated credits for the two injuries totaling 115 weeks, with the result that claimant is entitled to receive the remaining balance of 285 weeks of PPD benefits from the Fund commencing on the stipulated commencement date of August 27, 2019.

The Fund asserts on appeal that the deputy commissioner erred in finding claimant sustained a first qualifying injury. The Fund asserts it should be found on appeal that claimant did not sustain a first qualifying injury with the result that it should be found claimant is not entitled to receive benefits from the Fund. The Fund asserts that if it is found on appeal that claimant did sustain a first qualifying injury, it should be found that the award of 80 percent industrial disability is excessive and it should be reduced substantially.

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 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 March 11, 2020, 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 proved he is entitled to receive benefits from the Fund. I affirm the deputy commissioner's finding that claimant proved he sustained a first qualifying scheduled member injury to his right upper extremity on or about January 1, 2003, and I affirm the deputy commissioner's finding that claimant proved he sustained a second qualifying scheduled member injury to his right lower extremity on February 23, 2016. I affirm the deputy commissioner's finding that with the combination of the two injuries, claimant has sustained 80 percent industrial disability, which entitles claimant to receive 400 weeks of PPD benefits from the Fund, minus the stipulated credits for the two injuries totaling 115 weeks, with the result that claimant is entitled to receive the remaining balance of 285 weeks of PPD benefits from the Fund.

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

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on March 11, 2020, is affirmed in its entirety.

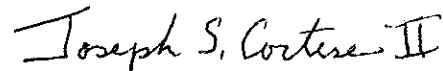
The Second Injury Fund of Iowa shall pay claimant four hundred (400) weeks of permanent partial disability benefits.

The Second Injury Fund of Iowa shall receive the stipulated credits for the first and second qualifying injuries totaling one hundred fifteen (115) weeks, with the result that the Fund shall pay claimant the remaining balance of two hundred eighty-five (285) weeks of PPD benefits at the stipulated weekly rate of six hundred eighty-six and 01/100 dollars (\$686.01), commencing on the stipulated commencement date of August 27, 2019.

The Second Injury Fund of Iowa shall pay accrued weekly benefits, if any, in a lump sum together with interest from the date of this appeal decision. All interest on past due weekly compensation benefits 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 February 23, 2016, date of injury, plus two percent. See Gamble v. AG Leader Technology, File No. 5054686 (App. Apr. 24, 2018).

Pursuant to rule 876 IAC 3.1(2), The Second Injury Fund of Iowa shall file subsequent reports of injury as required by this agency.

Signed and filed on this 29th day of October, 2020.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

The parties have been served, as follows:

James M. Ballard (via WCES)

Meredith C. Cooney (via WCES)