

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

SHANE W. ALLEN,

Claimant,

vs.

AG PROCESSING, INC.,

Employer,

and

ACE AMERICAN INSURANCE  
COMPANY,

Insurance Carrier,  
Defendants.

**FILED**  
MAY 06 2019  
WORKERS' COMPENSATION

File No. 5040225

ORDER GRANTING MOTION FOR  
ORDER NUNC PRO TUNC

An arbitration decision was filed on May 3, 2019, awarding the claimant, Shane Allen, an additional seventy-five weeks of permanent partial disability benefits, in addition to other relief. The decision provided in part, that the parties stipulated the rate was \$437.40 per week.

On May 6, 2019, the parties contacted me and noted that at pages 27 and 29, the rate had been transposed due to a typographical error to \$347.40 per week. Page 1 of the decision also indicates Ag Processing filed a petition for judicial review. Allen filed the petition for judicial review, not Ag Processing. The parties requested an order nunc pro tunc be entered as to the typographical error.

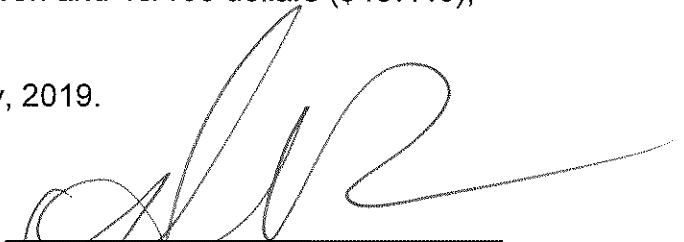
The purpose of "a nunc pro tunc order is not modify or correct a judgment, but to make the record show truthfully what judgment was actually rendered – 'not to make an order now for then, but to enter now for then an order previously made.'" State v. Pearson, 876 N.W.2d 200, 205 (Iowa 2016) (quoting Gen. Mills, Inc. v. Prall, 244 Iowa 218, 225, 56 N.W.2d 596, 600 (1953)). An order nunc pro tunc is appropriate.

**ORDER**

The May 3, 2019 arbitration decision is modified at page 1, paragraph 3 to provide "Allen filed a petition for judicial review." Pages 27 and 29 of the arbitration decision are modified to provide the correct rate, \$437.40. Defendants shall pay the claimant an additional seventy-five (75) weeks of permanent partial disability benefits at

the stipulated weekly rate of four hundred thirty-seven and 40/100 dollars (\$437.40), commencing on January 3, 2017.

Signed and filed this 6<sup>th</sup> day of May, 2019.



HEATHER L. PALMER  
DEPUTY WORKERS'  
COMPENSATION COMMISSIONER

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