

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

LENNIE TERRELL,

Claimant,

vs.

CITY OF DES MOINES,

Employer,
Self-Insured,
Defendant.

File No. 5049261

A P P E A L

D E C I S I O N

Head Note No: 1803

FILED

SEP 14 2017

WORKERS' COMPENSATION

Defendant City of Des Moines, self-insured employer, appeals from an arbitration decision filed on April 14, 2016. Claimant Lennie Terrell responds to the appeal. The case was heard on October 28, 2015, and it was considered fully submitted in front of the deputy workers' compensation commissioner on November 6, 2015.

The deputy commissioner found claimant sustained 30 percent industrial disability, which entitles claimant to 150 weeks of permanent partial disability benefits, commencing on June 29, 2015, for claimant's right shoulder injury which the parties stipulated arose out of and in the course of claimant's employment with defendant on November 8, 2013. The deputy commissioner also ordered defendant to pay claimant's costs of the arbitration proceeding.

Defendant asserts on appeal that the deputy commissioner erred in awarding claimant 30 percent industrial disability for the work injury. Defendant asserts the deputy commissioner should have awarded claimant five percent industrial disability for the work injury.

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.

Having performed a de novo review of the evidentiary record and the detailed arguments of the parties, 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 April 14, 2016, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided sufficient analysis of the issues raised in the arbitration proceeding. I affirm the deputy commissioner's finding that claimant sustained 30 percent industrial disability as a result of the November 8, 2013, work injury. I affirm the deputy commissioner's order that defendant 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 14, 2016, is affirmed in its entirety.

Defendant shall pay claimant one hundred fifty (150) weeks of permanent partial disability benefits at the weekly rate of five hundred thirty-two and 45/100 dollars (\$532.45), commencing on June 29, 2015.

Defendant shall pay accrued weekly benefits in a lump sum together with interest pursuant to Iowa Code section 85.30.

Defendant shall receive a credit for permanent partial disability benefits previously paid.

Pursuant to rule 876 IAC 4.33, defendant shall pay claimant's costs of the arbitration proceeding, and defendant shall pay the costs of the appeal, including the cost of the hearing transcript.

Pursuant to rule 876 IAC 3.1(2), defendant shall file subsequent reports of injury as required by this agency.

Signed and filed this 14th day of September, 2017.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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