

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

DALE D. WULF,
Claimant,

vs.

KRAJICEK, INC., d/b/a KRAJICEK
PALLET, INC.,

Employer,

and

QBE SPECIALTY MIDDLE MARKET,

Insurance Carrier,
Defendants.

File No. 5041729

A P P E A L

D E C I S I O N

FILED

MAR -9 2015

WORKERS' COMPENSATION

Head Note Nos. 1801, 4000

On February 20, 2015, Joseph S. Cortese II, Workers' Compensation Commissioner, delegated the authority to the undersigned to issue the final agency decision on the intra-agency appeal currently pending before this agency. The decision in this matter shall be the final agency decision.

This was an arbitration case that was heard on October 8, 2013. The case was not deemed fully submitted until October 28, 2013. The presiding deputy workers' compensation commissioner issued the arbitration decision on April 9, 2014. The deputy ordered the following:

1. The claimant is awarded a running award of temporary total benefits commencing September 15, 2011 at the weekly rate of four-hundred fifty-three and 41/100 dollars (\$453.41).
2. Defendants shall pay a penalty of thirty (30) percent for all benefits due from September 15, 2011 through August 28, 2012.
3. Defendants shall pay the medical cost and medical mileage as set forth in the decision.
4. Defendants shall pay claimant costs in the amount of two-hundred sixty-one and 50/100 dollars (\$261.50).
5. Defendants shall pay all past due amounts in a lump sum and with interest as provided by law.
6. Defendants shall file subsequent reports of injury (SROI) as required by this agency pursuant to rules 876 IAC 3.1(2) and 876 IAC 11.7.

On April 11, 2014, defendants filed a motion for rehearing and motion to submit contacts between counsel. On April 21, 2014, the presiding deputy filed a ruling on motion for rehearing and ruling on motion to submit additional evidence. Both motions were denied by the deputy.

On April 29, 2014, defendants filed a notice of appeal. They filed the appeal brief on June 4, 2014. Claimant filed his appeal brief on June 26, 2014. Defendants filed their reply brief on July 10, 2014.

In their briefs, defendants argued:

1. Claimant failed to establish his complaints were causally connected to his work injury of July 5, 2011; and
2. Claimant failed to establish he was entitled to penalty benefits pursuant to Iowa Code section 86.13 for the delay of payment of temporary benefits.

The undersigned reviewed the record de novo. On appeal, the appellant dictates all issues to be determined on appeal. Iowa Code section 17A.15; rule 876 IAC 4.28(4). The detailed arguments of the parties have been considered.

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

Pursuant to Iowa Code sections 86.24 and 17A.15, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed on April 9, 2014.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision of April 9, 2014 is AFFIRMED.

Defendants shall pay the costs of the appeal, including the preparation of the hearing transcript.

Signed and filed this _____ day of March, 2015.



MICHELLE A. McGOVERN
DEPUTY WORKERS' COMPENSATION
COMMISSIONER

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