

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

JAY GRAY,

Claimant,

vs.

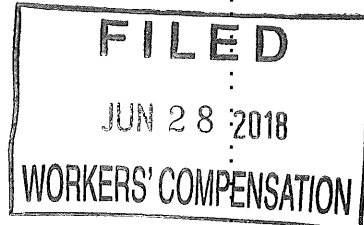
FRONTIER COMMUNICATIONS,

Employer,

and

CNA INSURANCE,

Insurance Carrier,
Defendants.



File Nos. 5038148, 5038595

NUNC PRO TUNC ORDER

On June 26, 2018, the undersigned filed a review-reopening decision in this case. Subsequently, claimant filed a motion for order nunc pro tunc. Defendants sent an email indicating their agreement.

In the summary of issues and stipulations, the undersigned accepted the stipulations of the parties. This included a stipulation regarding the elements comprising the rate of compensation. The parties agreed the correct rate is seven hundred sixty and 79/100 (\$760.79).

In the order, the undersigned incorrectly stated the weekly rate as four hundred and nineteen and 24/100 (\$419.24). This was a typographical or scrivener's error. After reviewing the matter fully, it is clear, the correct rate is, in fact, \$760.79.

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 intention was to award benefits at the weekly rate of \$760.79. This would conform with the weekly rate permitted and mandated by the Iowa Workers' Compensation Manual (rate book), as well as with the stipulation set forth in the hearing order. It is appropriate; therefore, to correct my scrivener's error in the order section of the review-reopening decision.


THEREFORE, IT IS ORDERED:

Claimant's motion for order nunc pro tunc is sustained.

The first paragraph in the order section of the review-reopening decision is amended to read as follows:

Defendants shall pay the claimant one hundred (100) weeks of permanent partial disability benefits at the rate of seven hundred sixty and 79/100 (\$760.79) per week from October 14, 2016.

Signed and filed this 28th day of June, 2018.



JOSEPH L. WALSH
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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