

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

STEPHEN FUHRI,

Claimant,

vs.

GREATWIDE LOGISTICS,

Employer,

and

MIDWEST EMPLOYERS CASUALTY  
COMPANY,

Insurance Carrier,  
Defendants.

**FILED**

**OCT 24 2017**

WORKERS' COMPENSATION

File No. 5047670

A P P E A L

D E C I S I O N

Head Note Nos: 1100; 1803; 3000;  
4000.2; 5-9998

Defendants Greatwide Logistics, employer, and its insurer, Midwest Employers Casualty Company, appeal from an arbitration decision filed on April 29, 2016. Claimant Stephen Fuhri responds to the appeal. The case was heard on January 27, 2016, and it was considered fully submitted in front of the deputy workers' compensation commissioner on February 17, 2016.

The deputy commissioner found claimant carried his burden of proof that the injury sustained by claimant on January 7, 2014, arose out of and in the course of claimant's employment with defendant-employer. The deputy commissioner found the injury caused claimant to sustain permanent disability. The deputy commissioner awarded claimant eight percent industrial disability for the work injury, which entitles claimant to 40 weeks of permanent partial disability benefits commencing on January 8, 2014. The deputy commissioner found claimant's weekly benefit rate for the work injury, classification single with one exemption, is \$804.90. The deputy commissioner found claimant is entitled to a penalty of ten percent of the total amount of permanent partial disability benefits for defendants' failure to properly investigate this claim after defendants filed their answer. The deputy commissioner also ordered defendants to pay claimant's costs of the arbitration proceeding.

Defendants assert on appeal that the deputy commissioner erred in finding the January 7, 2014, injury arose out of and in the course of claimant's employment with defendant-employer. Defendants assert the deputy commissioner erred in finding the injury caused claimant to sustain permanent disability and in awarding claimant eight

percent industrial disability. Defendants assert the deputy commissioner erred in failing to find claimant was not credible. Defendants assert the deputy commissioner erred in awarding claimant penalty benefits. Defendants also assert the deputy commissioner erred in ordering defendants to pay claimant's costs of the arbitration proceeding.

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 29, 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 findings of fact and conclusions of law pertaining to those issues. I affirm the deputy commissioner's finding that the injury sustained by claimant on January 7, 2014, arose out of and in the course of claimant's employment with defendant-employer. I affirm the deputy commissioner's finding that the work injury caused claimant to sustain eight percent industrial disability. I affirm the deputy commissioner's finding that claimant's weekly benefit rate for the work injury, classification single with one exemption, is \$804.90. I affirm the deputy commissioner's finding that claimant is entitled to a penalty of ten percent of the total amount of permanent partial disability benefits for defendants' failure to properly investigate this claim after defendants filed their answer. 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.

Some of the findings by the deputy commissioner in the arbitration decision were based on the deputy commissioner's findings regarding claimant's credibility. I find the deputy commissioner correctly assessed claimant's credibility. While I performed a de novo review, I give considerable deference to findings of fact which are impacted by the credibility findings, expressly or impliedly made, regarding claimant by the deputy commissioner who presided at the arbitration hearing. I find nothing in the record in this matter which would cause me to reverse the deputy commissioner's findings regarding claimant's credibility.

ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on April 29, 2016, is affirmed in its entirety.

Defendants shall pay claimant forty (40) weeks of permanent partial disability benefits at the rate of eight hundred four and 90/100 dollars (\$804.90) per week, commencing January 8, 2014.

Defendants shall pay ten (10) percent of the total amount of permanent partial disability benefits in the form of penalty benefits.

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

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

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

Signed and filed this 24th day of October, 2017.



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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

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