

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

CAROLYN SCHAEFER,

Claimant,

vs.

ROCKTENN COMPANY,

Employer,

and

NEW HAMPSHIRE INS. CO.,

Insurance Carrier,
Defendants.

FILED

SEP 13 2017

WORKERS COMPENSATION

File No. 5053834

ARBITRATION DECISION

Head Note No.: 1803

STATEMENT OF THE CASE

Claimant, Carolyn Schaefer, filed a petition in arbitration seeking workers' compensation benefits from RockTenn Company, employer, and New Hampshire Insurance Company, insurance carrier, both as defendants, as a result of a stipulated injury sustained on February 6, 2014. This matter came on for hearing before Deputy Workers' Compensation Commissioner Erica J. Fitch, on January 30, 2017, in Davenport, Iowa. The record in this case consists of Claimant's Exhibits 1 through 8, Defendants' Exhibits A through C, and the testimony of the claimant. The parties submitted briefs, the matter being fully submitted on February 13, 2017.

ISSUES

The parties submitted the following issues for determination:

1. Whether claimant is entitled to temporary disability benefits from March 30, 2015 through April 1, 2015;
2. The extent of claimant's industrial disability;
3. The commencement date for permanent partial disability benefits; and
4. Specific taxation of costs.

The parties filed a hearing report at the commencement of the arbitration hearing. On the hearing report, the parties entered into various stipulations. All of

those stipulations were accepted and are hereby incorporated into this arbitration decision and no factual or legal issues relative to the parties' stipulations will be raised or discussed in this decision. The parties are now bound by their stipulations.

FINDINGS OF FACT

The undersigned, having considered all of the evidence and testimony in the record, finds:

Claimant's testimony was consistent as compared to the evidentiary record and her demeanor at the time of evidentiary hearing gave the undersigned no reason to doubt claimant's veracity. Claimant is found credible.

Claimant was 55 years of age at the time of evidentiary hearing. She is single and the mother to three adult children. Claimant resides in Clinton, Iowa. Claimant is a high school graduate and possesses an associate's degree in business. She is right-hand dominant. (Claimant's testimony; Exhibit C, page 1)

Claimant began work at defendant-employer in October 2003. (Ex. B, p. 2) During her employment, claimant's job position has generally remained an inspector/packer. (Ex. C, p. 2) Defendant-employer's job description for the position of inspector/packer denotes the position as falling within the medium physical demand category. Such positions generally require occasional lifting of 35 to 50 pounds, frequent lifting of 10 to 20 pounds, and constant lifting of 10 to 15 pounds. Specific physical demands of the position include: frequent lifting of up to 25 pounds and occasional lifting of 26 to 50 pounds; constant reaching forward; occasional throwing, reaching overhead, or push/pull of 50 pounds; and carrying of up to 25 pounds frequently and 50 pounds occasionally. (Ex. 5, p. 1; Ex. B, p. 3) Additional requirements were noted with respect to the bilateral upper extremities, including: frequent pinching, fine manipulation, tool use, and light and medium level forceful exertion; constant gripping; and occasional heavy forceful exertion. (Ex. 5, p. 2; Ex. B, p. 4) Claimant testified she finds the job description accurate as to the demands of her work. Claimant remained employed in this position at the time of evidentiary hearing. Prior to her employment with defendant-employer, claimant worked in assembly, as a bank teller, and as a cashier. (Claimant's testimony; Ex. C, pp. 1-2)

On February 6, 2014, claimant suffered a stipulated work related injury when she slipped and fell on the production floor. Claimant landed upon her right side, striking primarily her right hip, shoulder and elbow. Claimant reported the injury, finished the last two hours of her work shift and went home, eschewing overtime hours. Later that day, at the referral of defendant-employer, claimant presented for chiropractic evaluation. (Claimant's testimony; Ex. C, p. 3)

At the initial evaluation with Todd Slattery, D.C., on February 6, 2014, claimant complained of pain of her neck, back, right shoulder and right arm. Dr. Slattery diagnosed a cervical sprain/strain with radiculitis, as well as thoracic and lumbar

sprain/strain with fasciitis and myalgia. He performed chiropractic manipulation. (Ex. 1, pp. 1-3)

Claimant thereafter periodically followed up with Dr. Slattery for manipulations. (Ex. 1, pp. 3-7) At an appointment on March 21, 2014, Dr. Slattery noted claimant's progress had stalled and he issued a referral to Mary Shook, M.D. for evaluation. (Ex. 1, p. 7) Claimant returned to Dr. Slattery for manipulations on March 25, April 7, and April 11, 2014, while awaiting medical evaluation. Upon arranging care with Dr. Shook, Dr. Slattery released claimant from care. (Ex. 1, pp. 8-9)

On April 18, 2014, claimant presented to Dr. Shook at Clinton Occupational Health. At that time, claimant expressed complaints of right shoulder pain. (Ex. 2, p. 1) Claimant underwent a physical examination and x-rays revealed no sign of fracture. (Ex. 2, pp. 2-4) Dr. Shook assessed a sprain of the right shoulder and recommended conservative treatment, including ibuprofen 800 mg, gentle range of motion exercises, ice/heat, and physical therapy. She permitted claimant to perform regular duty, but limited her to a maximum of 40 hours per week and 8 hours per day. (Ex. 2, pp. 3, 5)

On May 5 and May 16, 2014, claimant followed up with Dr. Shook, who continued the existing conservative treatment plan. (Ex. 2, pp. 6-14) On May 28, 2014, claimant returned to Dr. Shook and expressed additional complaints involving her right elbow. Dr. Shook continued conservative treatment measures. (Ex. 2, pp. 15-18) At follow up on June 9, 2014, Dr. Shook continued conservative measures, with the addition of use of Aspercream gel on claimant's right shoulder. (Ex. 2, pp. 19-22)

Claimant participated in physical therapy at Midwest Therapy from May 2, 2014 through June 9, 2014, per Dr. Shook's orders. (Ex. 3, pp. 2-11) On June 27, 2014, claimant returned to Dr. Shook and reported improvement of shoulder symptoms with the completed course of physical therapy. Dr. Shook ordered x-rays of the right elbow, which were normal. Dr. Shook prescribed a tennis elbow brace and recommended continued conservative measures. She left in place the work restriction of a maximum 40 hours per week and 8 hours per day. (Ex. 2, pp. 23-27)

During the month of July 2014, claimant continued to follow up with Dr. Shook. On July 8, 2014, claimant returned to Dr. Shook with continued complaints of the right elbow and shoulder. Dr. Shook assessed a right shoulder sprain and strain of the right elbow. Dr. Shook recommended use of an elbow sleeve instead of a brace, physical therapy for the elbow, and continued conservative measures and work restrictions. (Ex. 2, pp. 28-32) Dr. Shook continued conservative treatment and restrictions following a July 18, 2014 appointment. (Ex. 2, pp. 33-37) Following evaluation of claimant on July 30, 2014, Dr. Shook continued claimant's work restrictions and conservative treatment, with the exception of physical therapy. She issued a referral for orthopedic consultation. (Ex. 2, pp. 38-42)

On October 10, 2014, claimant returned to Clinton Occupational Health and was examined by Delos Carrier, M.D. Claimant expressed continued pain of the right shoulder and elbow. Dr. Carrier observed significantly worsened shoulder motion and

expressed concern of a frozen shoulder. Dr. Carrier noted claimant was scheduled for evaluation by Tyson Cobb, M.D. and advised claimant to return for evaluation following the consultation. In the interim, Dr. Carrier restarted physical therapy, continued conservative treatment measures, and left claimant's work restrictions in place. (Ex. 2, pp. 43-47)

On October 23, 2014, claimant presented to Tyson Cobb, M.D. of Orthopaedic Specialists for evaluation of right shoulder and elbow pain. Dr. Cobb performed a physical examination and ordered x-rays of both body parts, which he opined revealed no acute bone or joint abnormalities. Dr. Cobb assessed right frozen shoulder with questionable underlying pathology, and right lateral epicondylitis. He recommended a right shoulder MRI and ordered physical therapy for the shoulder and elbow conditions. Dr. Cobb also imposed work restrictions of a 5-pound maximum lift, no repetitive activity, and no use of the hand above shoulder level. (Ex. 4, pp. 6-8)

Claimant returned to Dr. Carrier in follow up on October 29, 2014. At that time, claimant expressed right thumb complaints. Dr. Carrier indicated the complaints should be evaluated by Dr. Cobb, but provided a thumb spica splint for use in the interim. He continued claimant's existing course of conservative treatment and work restrictions. (Ex. 2, pp. 48-52)

On November 3, 2014, Dr. Carrier reviewed the job description for the position of inspector/packer at defendant-employer. After doing so, Dr. Carrier opined claimant would be unable to perform a number of the associated duties, particularly those involving exertion with the right upper extremity. (Ex. 2, p. 54)

On November 11, 2014, claimant underwent the MRI of her right shoulder recommended by Dr. Cobb. The radiologist opined the results revealed a high-grade bursal surface partial tear of the distal supraspinatus tendon. Given the extent of the tear, the radiologist recommended treating the tear as a full-thickness tear. (Ex. 4, p. 10)

Following MRI, claimant returned to Dr. Cobb on November 19, 2014. Dr. Cobb reviewed claimant's MRI and opined it revealed a full-thickness retracted tear of the tendon. Dr. Cobb ordered physical therapy for the adhesive capsulitis, prior to pursuing other treatment options. He imposed work restrictions of a 5-pound maximum lift and avoidance of repetitive activity. (Ex. 3, pp. 13-14; Ex. 4, p. 11) Claimant began a course of physical therapy at Plaza Physical Therapy on December 4, 2014, per Dr. Cobb's orders. (Ex. 3, pp. 15-29)

On December 22, 2014, claimant returned to Dr. Cobb, who noted improved shoulder motion. Following examination, Dr. Cobb assessed right frozen shoulder, right retracted rotator cuff tear, and right chronic lateral epicondylitis. He recommended continued conservative measures, yet noted the potential for surgical intervention. (Ex. 4, pp. 12-13)

On January 12, 2015, claimant presented to Dr. Cobb and complained of continued pain of her right shoulder and elbow. Dr. Cobb recommended proceeding with a minimally invasive release of the right lateral epicondylitis of the elbow. While surgery was being scheduled, he recommended claimant continue right shoulder physical therapy. (Ex. 3, pp. 15-29; Ex. 4, pp. 14-16)

Claimant underwent right elbow surgery on February 16, 2015. Dr. Cobb performed a right lateral elbow release, minimally invasive with ultrasound guidance. He issued a postoperative diagnosis of chronic right lateral epicondylitis. (Ex. 4, pp. 18-19) Claimant was excused from work for the day of and day following surgery. (Ex. 4, pp. 17.1, 21.2) Thereafter, Dr. Cobb imposed restrictions of no use of the right upper extremity and the need to keep the arm clean and dry. (Ex. 4, pp. 19.1) Claimant returned to work at defendant-employer on light duty, performing office work. (Claimant's testimony; Ex. C, p. 4)

On February 24, 2015, claimant returned to Dr. Cobb for post-surgical follow up. At that time, claimant continued to take Norco, ibuprofen and gabapentin, as well as participate in physical therapy. Dr. Cobb recommended continued physical therapy of the shoulder. With respect to the right elbow, Dr. Cobb imposed restrictions of no use of the right arm, keep the right arm clean and dry, and rest/elevate the right arm as needed. (Ex. 4, pp. 20-21.1)

Claimant returned to Dr. Cobb for evaluation on March 2, 2015. On that date, Dr. Cobb recommended proceeding with right shoulder arthroscopy with probable rotator cuff repair. He imposed a work restriction prohibiting use of the right upper extremity. (Ex. 4, pp. 22-23.1)

On March 10, 2015, claimant presented to Dr. Cobb in follow up. Dr. Cobb noted he had not received authorization of the recommended right shoulder surgery. While he awaited approval, Dr. Cobb recommended continued physical therapy and left claimant's work restrictions in place. (Ex. 4, pp. 26-27) On March 13, 2015, defendants approved the recommended surgery. (Ex. 4, pp. 28-29)

On March 30, 2015, claimant underwent right shoulder surgery with Dr. Cobb. Dr. Cobb noted postoperative diagnoses of right shoulder rotator cuff tear with impingement and frozen shoulder with a labral tear and biceps tendon tear. He performed the following procedures: right shoulder arthroscopy with debridement of labrum; release and tenodesis of biceps tendon; arthroscopic repair of rotator cuff tear; arthroscopic acromioplasty; and resection of the distal aspect of the inferior portion of the clavicle. (Ex. 4, pp. 30-31) Dr. Cobb imposed restrictions of no use of the right arm, as well as keeping the area clean and dry. (Ex. 4, pp. 31.1)

Claimant underwent right shoulder surgery on Monday, March 30, 2015. She did not present to work on Monday or Tuesday, as she had not been directed to present to work. During her Wednesday shift, defendant-employer telephoned and advised claimant to present to work. As the call came during her shift, claimant did not believe she could ready herself and get a ride to work before the end of her shift. Claimant was

not paid for the missed work days of Tuesday and Wednesday. On Thursday, claimant utilized a paid vacation day and did not present to work. She was then off work for the remainder of a holiday weekend and returned to work the following Monday. (Claimant's testimony; Ex. C, p. 4)

On April 9, 2015, claimant returned to Dr. Cobb. Dr. Cobb recommended physical therapy, focusing on passive range of motion, and recommended claimant continue to wear her immobilizer full time, with the exception of when she was in a controlled home environment. He imposed restrictions of no use of the right upper extremity and one-handed duty as tolerated. (Ex. 4, pp. 32-33.1)

Following examination on May 11, 2015, Dr. Cobb recommended progression of claimant's physical therapy program. He imposed work restrictions allowing claimant to write at work, but to perform no lifting with the right arm for 2 weeks. Thereafter, he imposed a maximum lift of 5 pounds, with no lifting above chest level. (Ex. 4, pp. 34-35.1)

On June 22, 2015, claimant returned to Dr. Cobb and reported improving elbow pain, but worsening shoulder pain, numbness, and tingling of the right upper arm. Dr. Cobb assessed a touch of adhesive capsulitis. He recommended continued physical therapy and imposed work restrictions outlining a 10-minute break every two hours, as well as a 5-pound weight restriction for 2 weeks. He allowed the weight maximum to increase in 5-pound increments every two weeks until that maximum reached 20 pounds. (Ex. 4, pp. 35.2-37)

Claimant presented to Dr. Cobb on August 17, 2015 with continued complaints of elbow and shoulder pain. Dr. Cobb recommended a gentle work hardening program in addition to physical therapy. He imposed restrictions allowing for office work only, with a 20-pound maximum right upper extremity lift. (Ex. 4, pp. 38-39.1)

On October 12, 2015, claimant returned to Dr. Cobb and reported some continued symptoms of the right upper extremity. Dr. Cobb opined claimant was making gradual progress. Accordingly, he recommended progression to a formal work hardening program. Dr. Cobb imposed work restrictions of a 25-pound lift to chest height for two weeks, with the maximum weight increasing by 5 pounds each two weeks until full duty levels were reached. He also restricted claimant from performance of overtime hours. (Ex. 4, pp. 40-42)

On December 16, 2015, claimant was seen by a physician assistant to Dr. Cobb, Elizabeth Elander, PA-C. She issued a prescription for Voltaren gel and recommended continued physical therapy and work hardening. Ms. Elander imposed work restrictions of no overhead lifting and a 5-pound maximum for one week, then 10 pounds for two weeks, then 20 pounds for two weeks, to a maximum of 30 pounds until scheduled follow up evaluation. (Ex. 4, pp. 43-46.1)

Claimant was seen by Ms. Elander in follow up on January 25, 2016. At that time, claimant expressed belief she was capable of performing her normal work duties

and requested a trial of full duty work to determine if she could tolerate her duties. Ms. Elander released claimant to full duty work, yet noted claimant's activities may be restricted in the future should her work duties prove too difficult. (Ex. 4, pp. 47-49.1)

On July 18, 2016, claimant returned to Dr. Cobb in follow up. Dr. Cobb recommended continued physical therapy and a home exercise program. He imposed no work restrictions. (Ex. 4, pp. 50-52)

On September 26, 2016, claimant presented to Dr. Cobb and reported she no longer used the prescribed ibuprofen 800 mg. Dr. Cobb noted claimant had completed formal physical therapy and was utilizing a home exercise program. Claimant reported shoulder pain ranging from a 0 to 4 on a 10-point scale and elbow pain ranging from a 0 to a 4 or 5; pain in both locations worsened with activity. Claimant also reported some weakness of her right upper extremity. Dr. Cobb opined claimant had achieved maximum medical improvement (MMI) and allowed claimant to continue working full duty. (Ex. 4, pp. 53-55)

Dr. Cobb authored a letter to defendants' third party administrator regarding the extent of claimant's permanent impairment, dated November 7, 2016. Dr. Cobb opined claimant suffered a 4 percent upper extremity impairment due to decrements in shoulder range of motion and a 1 percent upper extremity impairment due to decrements in elbow range of motion. In total, he found a combined permanent impairment of 5 percent upper extremity or 3 percent whole person. (Ex. 4, pp. 56-57)

On November 17, 2016, defendants paid claimant 15 weeks of permanent partial disability benefits at the rate of \$533.94 per week, plus interest. (Ex. A, p. 1)

At the arranging of claimant's counsel, on December 2, 2016, claimant presented to board certified occupational medicine physician, Sunil Bansal, M.D. for an independent medical examination (IME). Dr. Bansal authored a report containing his findings and opinions dated December 14, 2016. As an element of the IME, Dr. Bansal performed a review of various records, including medical records, case management records and job descriptions. (Ex. 8, pp. 1-9) He also interviewed claimant and performed a physical examination. (Ex. 8, pp. 9-12)

During interview, claimant described her work duties at defendant-employer. She explained her lifting responsibilities varied by assigned station, but could reach 50 to 75 pounds. (Ex. 8, pp. 10-11) Claimant complained of right hip pain at times, with which she was unconcerned; as well as activity-dependent right shoulder and elbow pain. Claimant reported she was unable to lift much weight overhead with her right arm and estimated she was capable of lifting perhaps 10 pounds above shoulder level on an occasional basis. Claimant relayed difficulty reaching behind her back with the right arm and an inability to wash under her left armpit with her right hand. As a result, claimant indicated she wears a bra which does not require back closures and lifts her grandchild in her left arm. Claimant expressed belief she was able to lift 50 to 60 pounds to waist level with her bilateral arms on an occasional basis prior to becoming shaky. (Ex. 8, p. 10)

Following records review, interview and examination, Dr. Bansal issued work-related diagnoses of right hip strain; right lateral epicondylitis, status post release; and right frozen shoulder and retracted rotator cuff tear, status post arthroscopy with debridement of labrum, release and tenodesis of biceps tendon, rotator cuff repair, acromioplasty, and resection of the distal aspect of the inferior portion of the clavicle. (Ex. 8, pp. 13-14) Dr. Bansal concurred with Dr. Cobb's MMI date of September 26, 2016. (Ex. 8, p. 14) He identified future potential treatment needs of cortisone injections, NSAIDs, and a home exercise program. Dr. Bansal also opined a pain management evaluation would be beneficial. (Ex. 8, p. 14)

Dr. Bansal opined claimant sustained permanent impairment as a result of the work injury of February 6, 2014. With respect to the right shoulder, Dr. Bansal opined claimant suffered a 5 percent upper extremity impairment due to decrements in range of motion and a 10 percent upper extremity impairment due to distal clavicle resection. He also opined claimant sustained a 1 percent upper extremity impairment due to decrements in elbow range of motion. Dr. Bansal found no ratable impairment to claimant's right hip. Dr. Bansal recommended permanent restrictions of: no lifting greater than 30 pounds occasionally or 15 pounds frequently with the right arm; no lifting greater than 10 pounds above shoulder level or away from the body with the right arm on more than an occasional basis; and no frequent overhead lifting with the right arm. (Ex. 8, pp. 14-15)

By the AMA Guides to the Evaluation of Permanent Impairment, Fifth Edition, Dr. Bansal's permanent impairment ratings combine to a total permanent impairment of 10 percent whole person.

Claimant remains employed by defendant-employer as an inspector/packer. She earns approximately \$17.00 or \$18.00 per hour, plus insurance benefits. She has received raises since suffering her stipulated work injury on February 6, 2014. (Claimant's testimony; Ex. C, pp. 2, 7) Claimant works alternating weekly shifts of 36 and 48 hours; she occasionally works overtime. (Claimant's testimony; Ex. C, p. 2) Claimant testifies she continues to perform her preinjury job in generally the same manner, yet suffers some difficulty with overhead lifting. (Claimant's testimony; Ex. C, pp. 2, 5) Claimant has not looked for work outside of and intends to remain employed at defendant-employer. (Claimant's testimony)

CONCLUSIONS OF LAW

The first issue for determination is whether claimant is entitled to temporary disability benefits from March 30, 2015 through April 1, 2015.

The party who would suffer loss if an issue were not established has the burden of proving that issue by a preponderance of the evidence. Iowa Rule of Appellate Procedure 6.14(6).

Section 85.34(1) provides that healing period benefits are payable to an injured worker who has suffered permanent partial disability until (1) the worker has returned to

work; (2) the worker is medically capable of returning to substantially similar employment; or (3) the worker has achieved maximum medical recovery. The healing period can be considered the period during which there is a reasonable expectation of improvement of the disabling condition. See Armstrong Tire & Rubber Co. v. Kubli, Iowa App. 312 N.W.2d 60 (1981). Healing period benefits can be interrupted or intermittent. Teel v. McCord, 394 N.W.2d 405 (Iowa 1986).

Claimant underwent surgical intervention on her right shoulder on March 30, 2015. The surgery involved multiple procedures, including right shoulder arthroscopy with debridement of labrum; release and tenodesis of biceps tendon; arthroscopic repair of rotator cuff tear; arthroscopic acromioplasty; and resection of the distal aspect of the inferior portion of the clavicle. Following surgery, Dr. Cobb imposed restrictions of no use of the right arm and a need to keep the area clean and dry.

Claimant admittedly did not present to work on Monday March 30, Tuesday March 31, or Wednesday April 1, 2015. While defendants are correct that claimant was not removed from work during this period, authorized surgeon Dr. Cobb had imposed work restrictions upon claimant's activities. Defendants did not contact claimant regarding work opportunities until Wednesday. Although defendants had consistently provided light duty work throughout the pendency of claimant's claim, I do not believe that warrants an inference that work would have been offered and thus, that claimant is not entitled to healing period benefits. Furthermore, claimant underwent a significant surgical procedure on March 30, 2015; it is not reasonable to deny her healing period benefits on the surgery date.

Claimant was off work from March 30, 2015 through April 1, 2015. Following surgery, Dr. Cobb imposed work restrictions. Defendant-employer did not contact claimant until Wednesday, April 1, 2015 to offer work; this offer of work was made during claimant's regularly scheduled shift and was impracticable and unreasonable as a true offer of work for that date. Therefore, it is determined claimant is entitled to healing period benefits from March 30, 2015 through April 1, 2015.

The next issue for determination is the extent of claimant's industrial disability. The next issue for determination is the commencement date for permanent partial disability benefits. These issues will be considered together.

Under the Iowa Workers' Compensation Act, permanent partial disability is compensated either for a loss or loss of use of a scheduled member under Iowa Code section 85.34(2)(a)-(t) or for loss of earning capacity under section 85.34(2)(u). The parties have stipulated claimant's disability shall be evaluated industrially.

Since claimant has an impairment to the body as a whole, an industrial disability has been sustained. Industrial disability was defined in Diederich v. Tri-City R. Co., 219 Iowa 587, 258 N.W. 899 (1935) as follows: "It is therefore plain that the legislature intended the term 'disability' to mean 'industrial disability' or loss of earning capacity and not a mere 'functional disability' to be computed in the terms of percentages of the total physical and mental ability of a normal man."

Functional impairment is an element to be considered in determining industrial disability which is the reduction of earning capacity, but consideration must also be given to the injured employee's age, education, qualifications, experience, motivation, loss of earnings, severity and situs of the injury, work restrictions, inability to engage in employment for which the employee is fitted and the employer's offer of work or failure to so offer. McSpadden v. Big Ben Coal Co., 288 N.W.2d 181 (Iowa 1980); Olson v. Goodyear Service Stores, 255 Iowa 1112, 125 N.W.2d 251 (1963); Barton v. Nevada Poultry Co., 253 Iowa 285, 110 N.W.2d 660 (1961).

Compensation for permanent partial disability shall begin at the termination of the healing period. Compensation shall be paid in relation to 500 weeks as the disability bears to the body as a whole. Section 85.34.

Claimant was 55 years of age at the time of evidentiary hearing. Claimant earned a high school diploma and an associate's degree in business. Despite her post-secondary education, claimant has performed generally unskilled to semi-skilled labor, as an assembly worker, cashier and bank teller. She has been employed in generally the same assembly position for defendant-employer since her hire in 2003.

As a result of the stipulated work injury of February 6, 2014, claimant sustained permanent impairment. Dr. Cobb opined claimant suffered a 3 percent whole person impairment based upon decrements in range of motion. Dr. Bansal opined claimant sustained permanent impairment of 10 percent whole person based upon the surgical procedures undergone and decrements in range of motion.

Dr. Cobb released claimant to full duty work and claimant has successfully returned to work in her preinjury position. Since her work injury, claimant received raises in her hourly rate. While restricted from performance of overtime hours for a time, no such hourly restriction is currently imposed, leaving claimant to work the same hours as she worked preinjury. Dr. Bansal has recommended restrictions on claimant's activities which have bearing on claimant's ability to engage in the labor market generally; however, claimant has returned to her preinjury position and testified she intends to remain so employed.

Upon consideration of the above and all other relevant factors of industrial disability, it is determined claimant sustained a 15 percent industrial disability as a result of the stipulated work-related injury of February 6, 2014. Such an award entitles claimant to 75 weeks of permanent partial disability benefits (15 percent x 500 weeks = 75 weeks), commencing on April 2, 2015, the date following conclusion of the healing period. The parties stipulated at the time of the work injury, claimant's gross weekly earnings were \$891.00, and claimant was single and entitled to one exemption. The proper rate of compensation is therefore, \$533.94.

The final issue for determination is a specific taxation of costs pursuant to Iowa Code section 86.40 and rule 876 IAC 4.33. Claimant requests taxation of the costs of: \$100.00 filing fee and \$58.10 in transcription fees for claimant's deposition, which was entered into evidence. These are allowable costs and are taxed to defendants.

ORDER

THEREFORE, IT IS ORDERED:

The parties are ordered to comply with all stipulations that have been accepted by this agency.

Defendants shall pay unto claimant healing period benefits at the weekly rate of five hundred thirty-three and 94/100 dollars (\$533.94) for the period of March 30, 2015 through April 1, 2015.

Defendants shall pay unto claimant seventy-five (75) weeks of permanent partial disability benefits commencing April 2, 2015 at the weekly rate of five hundred thirty-three and 94/100 dollars (\$533.94).

Defendants shall pay accrued weekly benefits in a lump sum.

Defendants shall pay interest on unpaid weekly benefits awarded herein as set forth in Iowa Code section 85.30.

Defendants shall receive credit for benefits paid.

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

Costs are taxed to defendants pursuant to 876 IAC 4.33.

Signed and filed this 13th day of September, 2017.


ERICA J. FITCH
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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Right to Appeal: This decision shall become final unless you or another interested party appeals within 20 days from the date above, pursuant to rule 876 4.27 (17A, 86) of the Iowa Administrative Code. The notice of appeal must be in writing and received by the commissioner's office within 20 days from the date of the decision. The appeal period will be extended to the next business day if the last day to appeal falls on a weekend or a legal holiday. The notice of appeal must be filed at the following address: Workers' Compensation Commissioner, Iowa Division of Workers' Compensation, 1000 E. Grand Avenue, Des Moines, Iowa 50319-0209.