

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

ENRIQUE GUTIERREZ,

Claimant,

vs.

MERIVIC, INC.,

Employer,

and

ZURICH NORTH AMERICA,

Insurance Carrier,
Defendants.

FILED

MAY 17 2017

WORKERS' COMPENSATION

File No. 5030102

A P P E A L

D E C I S I O N

Head Note No: 3303.20

Defendants Merivic, Inc., employer, and its insurer, Zurich North America, appeal from a partial commutation decision filed on October 29, 2015. Claimant Enrique Gutierrez responds to the appeal. The case was heard on June 4, 2015, and it was considered fully submitted in front of the deputy workers' compensation commissioner on July 2, 2015.

In the partial commutation decision, the deputy commissioner found claimant carried his burden of proof that a partial commutation of his July 14, 2010, permanent total disability award for the stipulated work injury of April 28, 2008, is in claimant's best interest. The deputy commissioner also ordered defendants to pay claimant's costs of the partial commutation proceeding.

Defendants assert on appeal that the deputy commissioner erred in finding claimant carried his burden of proof that the partial commutation is in claimant's best interest.

Claimant asserts on appeal that the partial commutation decision should be affirmed.

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 partial commutation decision filed on October 29, 2015, 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 partial commutation 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 claimant carried his burden of proof that the partial commutation is in claimant's best interest. I affirm the deputy commissioner's order that defendants pay claimant's costs of the partial commutation proceeding. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

ORDER

IT IS THEREFORE ORDERED that the partial commutation decision filed on October 29, 2015, is affirmed in its entirety.

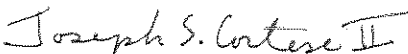
Claimant's petition for partial commutation is granted.

Defendants shall pay claimant a lump sum payment of future weekly benefits, except for the last week, discounted to the present value based on the number of weeks to be commuted and the interest rate for determining the discount as of the date of this decision.

Pursuant to rule 876 IAC 4.33, defendants are taxed with claimant's costs of the partial commutation 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 17th day of May, 2017.



JOSEPH S. CORTESE II
WORKERS' COMPENSATION
COMMISSIONER

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