

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

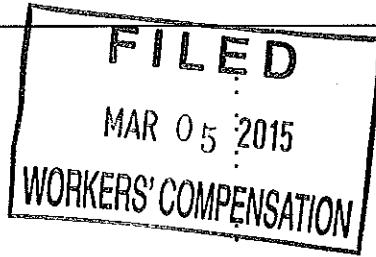
LISA WESTHOFF,
Claimant,

vs.

QUALICENTERS SIOUX CITY,
Employer,

and

AMERICAN CASUALTY COMPANY,
Insurance Carrier,
Defendants.



File No. 5055010

NUNC PRO TUNC ORDER

On March 4, 2015, the undersigned filed an arbitration decision in this case. On March 4, 2015, defendants filed a motion for order nunc pro tunc. It is, at once, clear that the undersigned made a scrivener's error in the Order section of the arbitration decision that can and must be corrected by nunc pro tunc Order.

The parties stipulated that the claimant had gross wages of \$669.66 and is single with three exemptions. Those factors lead to the appropriate conclusion that the rate is \$449.92. This stipulation was accepted. Unfortunately, in the Order section of the arbitration decision, I inadvertently used the claimant's gross wages and ordered the payments at \$669.66. This was a classic scrivener's error by the undersigned.

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 accepted, stipulated weekly rate of \$449.92. It is appropriate; therefore, to correct my scrivener's error in the order section of the arbitration decision.


THEREFORE, IT IS ORDERED:

Defendants' motion for order nunc pro tunc is sustained.

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

Defendants shall pay the claimant two hundred (200) weeks of permanent partial disability benefits at the rate of four hundred forty-nine and ninety-two (\$449.92) per week commencing March 13, 2013.

Signed and filed this 5th day of March, 2015.



JOSEPH L. WALSH
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

Copies to:

Al Sturgeon
Attorney at Law
911 - 6th St.
Sioux City IA 51101
alsturgeon@siouxian.net

Craig D. Finch
Attorney at Law
2700 Westown Parkway, Suite 170
West Des Moines, IA 50266
cfinch@desmoineslaw.com

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