BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

GEORGE HALFHILL, Claimant, vs. AREA TREE SERVICE, Employer, Defendant.	: : : : : : : : : : :	File No. 5018635 R E V I E W – R E O P E N I N G D E C I S I O N Head Note No.: 1402.40; 1803; 4000.2

STATEMENT OF THE CASE

George Halfhill, claimant, filed a petition in review-reopening seeking workers' compensation benefits from Area Tree Service as a result of an injury he allegedly sustained on July 19, 2004, that allegedly arose out of and in the course of his employment. This case was heard and fully submitted in Iowa City, Iowa, on May 4, 2009. The evidence in this case consists of the testimony of claimant and claimant's exhibits 1 through 7 and defendant's exhibits A and B.

ISSUES

Whether the injury is a cause of permanent disability and, if so;

The extent of claimant's industrial disability;

Whether claimant is entitled to penalty benefits under Iowa Code section 86.13 and, if so, how much.

FINDINGS OF FACT

The deputy workers' compensation commissioner having heard the testimony and considered the evidence in the record finds that:

George Halfhill, III, claimant, was born in 1965 making him 43 years old at the time of the evidentiary hearing. (Claimant's testimony) He attended high school to the 11th grade and later got his GED. (Claimant's testimony) He has taken 2 years of courses after high school taking accounting and computer classes. (Claimant's testimony) When he was 15-20 years old he sustained bilateral wrist fractures, and had pins placed that were later removed. (Exhibit 2, page 9) His work history includes working as a dishwasher, cook, and manager at a restaurant and fast food restaurant; 8

years doing lawn mowing and snow removal; and 12 years working for a temporary agency doing work such as a laborer lifting up to 40 pounds repetitively, doing warehouse jobs standing on a cement floor and lifting up to 100 pounds, and being a foreman of 60 – 65 people. (Claimant's testimony)

A print out of court records indicates that claimant has had approximately 37 entries from 1990 to 2007 for such things as multiple OWIs, other driving violations, assault and disorderly conduct, and possession of a controlled substance. (Exhibit B, pages 4-5) He admitted on cross-examination that he was a recreational drug user before July 19, 2004. (Claimant's testimony) On or about April 27, 2009, he was allegedly intoxicated and allegedly interfered with officers and was charged with assault on a peace officer. (Ex. A, pp. 1-3) At the evidentiary hearing (May 3, 2009) he had a black eye that he said came from being struck by a police officer's flashlight. (Claimant's testimony)

The arbitration decision in this matter filed April 30, 2007, established the following. Claimant began working for Area Tree Service, defendant-employer, in 2001. Claimant worked as a grounds man picking up branches and logs of trees after they were cut. On July 19, 2004 he sustained a work injury when he tripped over a log and fell on his butt. The injury resulted in a herniated disc at L5-S1. Area Tree Service was ordered to pay claimant's medical expenses and to provide treatment by Chad D. Abernathey, M.D. (Ex. 7, pp. 2-3, 6)

Before July 19, 2004, claimant was paid $12.00 per hour and worked up to 50-56 hours per week. (Claimant's testimony) Following the July 19, 2004 injury he was treated for on and off low back pain by a chiropractor on July 21, 2004. (Ex. 1, pp. 1-4) On July 28, 2004, he was seen at Mercy Medical Center Emergency Room for complaints of low back pain and pain into the left buttocks. (Ex. 2, p. 2) X-rays were taken, an MRI was ordered, and claimant was referred to Dr. Abernathey. (Ex. 2, pp. 1, 5, 7-8, 11) The x-rays of the lumbosacral spine showed no acute changes and minimal lumbar scoliosis. (Ex. 2, p. 11) The MRI of the lumbar spine was done July 29, 2001, and interpreted to show a moderately large disc extrusion on the left at L5-S1 and mild to moderate broad-based posterior disc bulging at L4-5. (Ex. 3, pp. 1-2)

Dr. Abernathey saw claimant on July 30, 2004, noted a history of low back pain with radiation into the left leg, found that claimant clinically presented with a left S1 radiculopathy secondary to left L5-S1 disc extrusion and after discussing options with claimant decided on a course of conservative treatment including medication. (Ex. 4, pp. 1-3) On August 1, 2004, claimant contacted Dr. Abernathey requesting additional narcotics medications which the doctor declined to provide. (Ex. 4, p. 4)

Claimant's W-2s for calendar year 2004 indicates he was paid $4,978.00 in wages from Area Tree Service. (Ex. 6, p. 1) A 1099 form from Area Tree Service for

claimant indicates he received $4,325.00 in non employee compensation in 2004. (Ex. 6, p. 2) Claimant's employment with Area Tree Service was terminated in January 2006 for reasons other than his work injury. (Ex. 7, p. 2)

In a letter dated February 14, 2007, to Dr. Abernathey an attorney for claimant asked the doctor to respond to certain questions. (Ex. 4, pp. 5-6) Dr. Abernathey responded on February 15, 2007 that claimant's diagnosis was left L5-S1 disc extrusion, that he had offered claimant surgical intervention and answered yes to the question:

> Do you believe it more likely than not that George's work injury on July 19, 2004 was a substantial factor in causing his left L5-S1 disc extrusion or at a minimum a substantial factor in materially aggravating any underlying predisposition to this condition he may have had?

(Ex. 4, p. 7)

Claimant's attorney referred him to Richard Neiman, M.D., neurologist for an independent medical examination, provided him medical records, and asked him to respond to certain questions. (Ex. 5, pp. 1-3, 8) Dr. Neiman reviewed medical records; saw claimant on August 5, 2008; took claimant's history which included that he drank one-half a fifth on Fridays, had not been driving for 9 years, used 2 to 3 marijuana joints a day and has used marijuana since his youth, he had fractured ribs and shoulder in the past, he had hypertension and had not taken medicine for 2 to 3 years for it, he has smoked one plus pack a day for the last 28 years, and apparently does a poor job trying to take care of himself medically; did a physical examination of claimant; and prepared a report dated August 5, 2008. (Ex. 5, pp. 4-7) Dr. Neiman used the AMA Guides to the Evaluation of Permanent Impairment, 5th Edition, DRE lumbar category number 3 to assign a permanent impairment rating. (Ex. 5, p. 6) Dr. Neiman wrote in his August 5, 2008, report:

> Recommendations: I think he should have another MRI scan, I think he will be surgical candidate. He is reluctant to do such. As far as restrictions, he is capable of lifting range of approximately 10-15 pounds and maximum around 25-30 pounds, no more than four times an hour. Should avoid excessive flexion, extension, and lateral flexion of the L-S spine. Crawling, kneeling, and bending should not be done. Believe it is markedly reduced. Prolonged sitting and standing should be avoided, should be able to change positions frequently. Cannot return to his previous position as working at the tree service. Again, I strongly advise that he should go to the operative approach; this is a massive disc extrusion. Level of impairment is 13% function and restrictions related to the injury, which occurred at work on or about 07/19/04.

(Ex. 5, p. 7)

On the hearing report the parties supplied the date of August 5, 2008, as the commencement date for permanent partial disability benefits, if any are awarded, but did not designate whether the date was disputed or stipulated. (Hearing report) Also on the hearing report no information was supplied regarding the weeks of compensation paid prior to the hearing and the parties checked the box indicating credit against any award was no longer in dispute. (Hearing report) From this it is found that defendant paid no weekly benefits prior to the evidentiary hearing.

Claimant testified to the following at the evidentiary hearing (May 4, 2009). He lost his driver's license sometime before 2001. His low back pain waxes and wanes. His back goes out every 3 to 6 months. He takes over-the-counter medication. He currently works for 3 different tree services as a general foreman and a roper, using ropes and a T-bar to control where branches and limbs of trimmed trees fall. He pulls up to 40 to 50 pounds on the rope. He now generally earns $15.00 per hour, is paid in cash, and works 30-35 hours a week depending on the weather, who his boss is and whether his back has gone out. He was paid $12.00 per hour by one tree service. He has applied for work at some tree services and they would not hire him when he disclosed he has a back problem. If he did not have a foreman job, he did not think he could do work involving loading trucks with parts of trees that weigh up to 150 pounds. Since April 2007 he has worked regularly for tree services except in the winter. Since July 19, 2004, he has gone to a free clinic for medical treatment two or maybe more times. Dr. Abernathey told him that he could not make an appointment if he did not have insurance. He watches how much he lifts. He does not camp, fish, or hunt mushroom as often now. (Claimant's testimony)

CONCLUSIONS OF LAW

The first issue to be resolved is whether the alleged injury is a cause of permanent disability.

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 R. App. P. 6.14(6).

The claimant has the burden of proving by a preponderance of the evidence that the injury is a proximate cause of the disability on which the claim is based. A cause is proximate if it is a substantial factor in bringing about the result; it need not be the only cause. A preponderance of the evidence exists when the causal connection is probable rather than merely possible. George A. Hormel & Co. v. Jordan, 569 N.W.2d 148 (Iowa 1997); Frye v. Smith-Doyle Contractors, 569 N.W.2d 154 (Iowa App. 1997); Sanchez v. Blue Bird Midwest, 554 N.W.2d 283 (Iowa App. 1996).

The question of causal connection is essentially within the domain of expert testimony. The expert medical evidence must be considered with all other evidence introduced bearing on the causal connection between the injury and the disability. Supportive lay testimony may be used to buttress the expert testimony and, therefore, is

also relevant and material to the causation question. The weight to be given to an expert opinion is determined by the finder of fact and may be affected by the accuracy of the facts the expert relied upon as well as other surrounding circumstances. The expert opinion may be accepted or rejected, in whole or in part. St. Luke's Hosp. v. Gray, 604 N.W.2d 646 (Iowa 2000); IBP, Inc. v. Harpole, 621 N.W.2d 410 (Iowa 2001); Dunlavey v. Economy Fire and Cas. Co., 526 N.W.2d 845 (Iowa 1995). Miller v. Lauridsen Foods, Inc., 525 N.W.2d 417 (Iowa 1994). Unrebutted expert medical testimony cannot be summarily rejected. Poula v. Siouxland Wall & Ceiling, Inc., 516 N.W.2d 910 (Iowa App. 1994).

Claimant continues to periodically have low back pain. The MRI indicates he has what Dr. Neiman has called a massive disc extrusion at the left L5-S1 level. (Ex. 5, pp. 5, 7) Both Dr. Abernathey and Dr. Neiman have recommended surgery. Dr. Abernathey agreed that the work injury on July 19, 2004, was a substantial factor in causing the disc extrusion. Dr. Neiman related claimant's permanent impairment and restrictions to the work injury. Dr. Neiman has assigned a permanent impairment and restrictions. Dr. Abernathy's and Dr. Neiman's opinions are uncontradicted. Claimant has proved the work injury on July 19, 2004, caused a permanent disability.

The next issue to be resolved is the extent of claimant's industrial disability.

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.2d 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 43 years old at the time of the evidentiary hearing. He has a GED after attending high school to the 11th grade. He has taken accounting and computer classes after dropping out of high school. His work history prior to beginning work in tree service appears to be manual, unskilled labor and some supervisory work. When

he was injured he was working in tree service earning $12.00 per hour and working up to 50-56 hours a week. His inability to legally drive began before he began working for Area Tree Service. After the July 19, 2004, injury he worked for Area Tree Service until January 2006 when his employment was terminated for reasons other than his work injury. Since the termination he has found work at other tree services doing foreman and rope work. He is generally paid $15.00 per hour and generally works 30-35 hours a week. The only permanent impairment rating in the record is that of Dr. Neiman who has assigned a rating of 13 percent of the body as a whole. Dr. Neiman has recommended restrictions but it appears claimant's work activities exceed Dr. Neiman's restrictions. Claimant has not had surgery despite both Dr. Abernathey and Dr. Neiman recommending it. Claimant has what Dr. Neiman calls a "massive" disk extrusion at left L5-S1. Claimant does not have active medical treatment but this may be due in part to both claimant and Area Tree Service being uninsured. When all relevant factors are considered claimant has an industrial disability/loss of earning capacity of 25 percent as a result of the July 19, 2004, injury. This conclusion entitles claimant to 125 weeks of permanent partial disability benefits. (25 percent times 500 weeks) The date suggested in the hearing report for the commencement date of the permanent partial disability benefits, August 5, 2008, will be accepted because there is no better date in the record and it is not clearly contrary to the law.

The last issue to be resolved is whether claimant is entitled to penalty benefits under Iowa Code section 86.13 and, if so, how much.

In Christensen v. Snap-on Tools Corp., 554 N.W.2d 254 (Iowa 1996), and Robbennolt v. Snap-on Tools Corp., 555 N.W.2d 229 (Iowa 1996), the supreme court said:

> Based on the plain language of section 86.13, we hold an employee is entitled to penalty benefits if there has been a delay in payment unless the employer proves a reasonable cause or excuse. A reasonable cause or excuse exists if either (1) the delay was necessary for the insurer to investigate the claim or (2) the employer had a reasonable basis to contest the employee's entitlement to benefits. A "reasonable basis" for denial of the claim exists if the claim is "fairly debatable."

Christensen, 554 N.W.2d at 260.

The supreme court has stated:

> (1) If the employer has a reason for the delay and conveys that reason to the employee contemporaneously with the beginning of the delay, no penalty will be imposed if the reason is of such character that a reasonable fact-finder could conclude that it is a "reasonable or probable cause or excuse" under Iowa Code section 86.13. In that case, we will

defer to the decision of the commissioner. See Christensen, 554 N.W.2d at 260 (substantial evidence found to support commissioner's finding of legitimate reason for delay pending receipt of medical report); Robbennolt, 555 N.W.2d at 236.

(2) If no reason is given for the delay or if the "reason" is not one that a reasonable fact-finder could accept, we will hold that no such cause or excuse exists and remand to the commissioner for the sole purpose of assessing penalties under section 86.13. See Christensen, 554 N.W.2d at 261.

(3) Reasonable causes or excuses include (a) a delay for the employer to investigate the claim, Christensen, 554 N.W.2d at 260; Kiesecker v. Webster City Meats, Inc., 528 N.W.2d at 109, 111 (Iowa 1995); or (b) the employer had a reasonable basis to contest the claim—the "fairly debatable" basis for delay. See Christensen, 554 N.W.2d at 260 (holding two-month delay to obtain employer's own medical report reasonable under the circumstances).

(4) For the purpose of applying section 86.13, the benefits that are underpaid as well as late-paid benefits are subject to penalties, unless the employer establishes reasonable and probable cause or excuse. Robbennolt, 555 N.W.2d at 237 (underpayment resulting from application of wrong wage base; in absence of excuse, commissioner required to apply penalty).

If we were to construe [section 86.13] to permit the avoidance of penalty if any amount of compensation benefits are paid, the purpose of the penalty statute would be frustrated. For these reasons, we conclude section 86.13 is applicable when payment of compensation is not timely . . . or when the full amount of compensation is not paid.

Id.

(5) For purposes of determining whether there has been a delay, payments are "made" when (a) the check addressed to a claimant is mailed (Robbennolt, 555 N.W.2d at 236; Kiesecker, 528 N.W.2d at 112), or (b) the check is delivered personally to the claimant by the employer or its workers' compensation insurer. Robbennolt, 555 N.W.2d at 235.

(6) In determining the amount of penalty, the commissioner is to consider factors such as the length of the delay, the number of delays, the information available to the employer regarding the employee's injury and wages, and the employer's past record of penalties. Robbennolt, 555 N.W.2d at 238.

> (7) An employer's bare assertion that a claim is "fairly debatable" does not make it so. A fair reading of Christensen and Robbennolt, makes it clear that the employer must assert facts upon which the commissioner could reasonably find that the claim was "fairly debatable." See Christensen, 554 N.W.2d at 260.

Meyers v. Holiday Express Corp., 557 N.W.2d 502 (Iowa 1996).

Weekly compensation payments are due at the end of the compensation week. Robbennolt, 555 N.W.2d 229, 235.

Penalty is not imposed for delayed interest payments. Davidson v. Bruce, 593 N.W.2d 833, 840 (Iowa App. 1999). Schadendorf v. Snap-On Tools Corp., 757 N.W.2d 330, 338 (Iowa 2008).

When an employee's claim for benefits is fairly debatable based on a good faith dispute over the employee's factual or legal entitlement to benefits, an award of penalty benefits is not appropriate under the statute. Whether the issue was fairly debatable turns on whether there was a disputed factual dispute that, if resolved in favor of the employer, would have supported the employer's denial of compensability. Gilbert v. USF Holland, Inc., 637 N.W.2d 194 (Iowa 2001).

> The flaw in the commissioner's analysis is that the reasonableness of the employer's denial or termination of benefits does not turn on whether the employer was right. The issue is whether there was a reasonable basis for the employer's position that no benefits were owing.
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> . . . Whether this information ultimately turned out to be correct in view of Dr. Abernathey's oral instructions to Craddock is unimportant. What is determinative is whether the employer was reasonable in accepting the physician's release at face value and concluding the claimant's entitlement to industrial disability was questionable. As noted above, functional impairment and the ability to maintain one's pre-injury earning level are important factors in assessing industrial disability. We agree with the district court that in view of the employer's reasonable belief that the claimant could perform her pre-injury job without limitation, "the issue of industrial disability was fairly debatable" as a matter of law.
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> . . . The failure of the employer to inform the injured worker of its reason for denying or terminating benefits is not an independent ground for awarding penalty benefits.
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> . . . The Meyers case did not involve a claim that the employer had not contemporaneously communicated a reason for nonpayment to the claimant, so in that respect our discussion was dicta.

> Notwithstanding the gratuitous nature of our comments, we left the erroneous impression that the employer had an obligation under all circumstances to inform the employee of the reason for any delay in payment upon commencement of the delay or suffer a penalty if it did not so inform the employee. As our analysis in the present decision establishes, however, section 86.13 does not permit penalty benefits for any reason other than the absence of a reasonable basis to delay or terminate benefits. To the extent we stated otherwise in Meyers, we disavow such statements.
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> On the other hand, when an employer terminates benefits before the claimant returns to work, the employer's failure to give a thirty-day notice as required by section 86.13 may result in penalty benefits. That is because in the absence of the required notice, an employer has no right to stop paying benefits. See Iowa Code § 86.13 para. 2 (stating "payments shall be terminated only . . . upon thirty days' notice . . ." (emphasis added)); Auxier v. Woodward State Hosp.-Sch., 266 N.W.2d 139, 142 (Iowa 1978) (holding Due Process Clause requires pre-termination notice "except where the claimant has demonstrated recovery by returning to work"). If an employer has not given the thirty-day notice, it has no reasonable excuse for terminating benefits, even if it has a reasonable basis to contest the employee's entitlement to benefits. So, under the limited circumstances when pre-termination notice is required, a failure to convey the reason for termination to the worker prior to terminating benefits can, in fact, result in the imposition of a penalty.

Keystone Nursing Care Center v. Craddock, 705 N.W.2d 299, 307-309 (Iowa 2005)

> A claimant seeking to recover under this statute must establish "a delay in the commencement of benefits or a termination of benefits.'" Keystone Nursing Care Ctr. v. Craddock, 705 N.W.2d 299, 307 (Iowa 2005). The burden then shifts to the insurer "to prove [ ] a reasonable cause or excuse" for the delay or denial. Christensen v. Snap-On Tools Corp., 554 N.W.2d 254, 260 (Iowa 1996) "A reasonable cause or excuse exists if either (1) the delay was necessary for the insurer to investigate the claim or (2) the employer had a reasonable basis to contest the employee's entitlement to benefits." Id.
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> In the Christensen case, we held the "fairly debatable" standard used in the tort of bad faith denial of insurance claims should be used for purposes of section 86.13 penalty benefits in determining whether a

workers' compensation insurer had a reasonable basis to deny a claimant's claim. Id.

This court recently stated the following principles with respect to the reasonable-basis element of a bad-faith tort claim:

> A reasonable basis exists for denial of policy benefits if the insured's claim is fairly debatable either on a matter of fact or law. A claim is "fairly debatable" when it is open to dispute on any logical basis. Stated another way, if reasonable minds can differ on the coverage-determining facts or law, then the claim is fairly debatable.
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> The fact that the insurer's position is ultimately found to lack merit is not sufficient by itself to establish the first element of a bad faith claim. The focus is on the existence of a debatable issue, not on which party was correct.
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> . . . .
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> "'where an objectively reasonable basis for denial of a claim *actually* exists, the insurer cannot be held liable for bad faith as a matter of law.'" *As one court has explained, "[c]ourts and juries do not weigh the conflicting evidence that was before the insurer; they decide whether evidence existed to justify the denial of the claim."*
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> Bellville v. Farm Bureau Mut. Ins. Co., 702 N.W.2d 468, 473-74 (Iowa 2005).

. . . .

But the insurer is not required to accept the evidence most favorable to the claimant and ignore contradictory evidence. See Bellville, 702 N.W.2d at 479 (stating insurer is not required to view the facts in a light most favorable to the claimant); Gilbert v. USF Holland, Inc., 637 N.W.2d 194, 200 (Iowa 2001) (stating employer could reasonably argue later inconsistent version of incident was a fabrication).

. . . .

But the fact the commissioner was not convinced by evidence supporting the insurer's denial does not negate the existence of a genuine dispute with respect to whether the claimant's January 2003 fall was the cause of her injury. Bellville, 702N.W.2d at 473 (stating the fact the insurer's position is ultimately found to lack merit will not by itself establish the insurer had no reasonable basis for its denial of benefits); Gilbert, 637 N.W.2d at 200 (same).

(Emphasis added.) (Italicized language emphasis is in the original.)

City of Madrid v. Blasnitz, 742 N.W.2d 77, 81-83 (Iowa 2007)

As concluded above claimant is entitled to 125 weeks of permanent partial disability commencing August 5, 2008. Defendant has paid claimant no permanent partial disability benefits. Claimant has proven that there has been a delay in commencement of weekly benefits. Defendant has provided no direct evidence why weekly benefits have not been paid. The evidence in this case shows that claimant sustained an injury on July 19, 2004. The opinions of Dr. Abernathey and Dr. Neiman that the injury caused a permanent condition are uncontradicted. There is no evidence or basis that claimant was not entitled to workers' compensation benefits. Claimant's claim was not fairly debatable. It is noted that the April 30, 2007, arbitration decision effectively established that defendant was liable for claimant's July 19, 2004, injury. Merely because defendant is uninsured is not a reasonable basis for failure to pay weekly benefits. See Bremer v. Wallace, 728 N.W.2d 803 (Iowa 2007) Claimant is entitled to penalty.

The delay in payment of benefits is from August 5, 2008 to May 4, 2009. (Penalty cannot be awarded for a period beyond the evidentiary hearing. Simonson v. Snap-On Tools Corp., 558 N.W.2d 430 (Iowa 1999) Defendant's history of having penalty assessed against it is unknown from the record. The penalty should be 50 percent. Claimant is entitled to 50 percent for failure to pay permanent partial disability benefits from August 5, 2008 through May 4, 2009 (39 weeks).

ORDER

THEREFORE, it is ordered:

That defendant is to pay unto claimant one hundred twenty-five (125) weeks of permanent partial disability benefits at the rate of two hundred nine and 88/100 dollars ($209.88) per week from August 5, 2008.

That defendant shall pay accrued weekly benefits in a lump sum.

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

That defendant shall pay claimant penalty benefits in the amount of four thousand ninety-two and 66/100 dollars ($4,092.66) (50 percent times $209.88 times 39 weeks).

That defendant shall pay interest on the penalty benefits from the date of this decision. See Schadendorf v. Snap-On-Tools, 757 N.W.2d 330 (Iowa 2008).

That defendant shall pay claimant's medical expenses causally related to the July 19, 2004 injury.

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

That defendant shall pay the costs of this matter pursuant to rule 876 IAC 4.33 [costs of reports limited to one hundred fifty dollars ($150.00).]

Signed and filed this ____23rd____ day of July, 2009.

_____
CLAIR R. CRAMER
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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