

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

KEVIN BURKLE,

Claimant,

vs.

THE WEITZ COMPANY,

Employer,

and

ACIG INSURANCE COMPANY,

Insurance Carrier,  
Defendants.

**FILED**

**FEB 18 2016**

WORKERS' COMPENSATION

File No. 5042468

A P P E A L

D E C I S I O N

Head Note Nos.: 1801; 1803

Defendants The Weitz Company, employer, and its insurer, ACIG Insurance Company, appeal from an arbitration decision filed on December 26, 2014. The case was heard on February 24, 2014, and it was considered fully submitted on April 9, 2014, in front of the deputy workers' compensation commissioner.

The deputy commissioner found that claimant carried his burden of proof that his ongoing right shoulder condition was caused by claimant's work-related injury of July 13, 2012. The deputy commissioner awarded claimant a running award of healing period benefits from July 13, 2012, until such time as those benefits shall end. The deputy commissioner also awarded claimant costs in the amount of \$2,128.00.

Defendants assert on appeal that the deputy commissioner erred in finding that claimant carried his burden of proof that his ongoing right shoulder condition was caused by claimant's work-related injury of July 13, 2012. Defendants also assert that the deputy commissioner erred in awarding running healing period benefits from July 13, 2012. In this appeal, defendants did not raise the issue of the costs awarded by the deputy commissioner.

Claimant asserts on appeal that the arbitration decision should be affirmed in its entirety.

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 86.24 and 17A.5, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed on December 26, 2014, which relate to issues properly raised on intra-agency appeal with the following analysis:

The deputy commissioner provided sufficient analysis of the issues raised in the arbitration proceeding. I concur with the deputy commissioner's findings of fact and conclusions of law pertaining to these issues. I concur with the deputy commissioner's finding that claimant carried his burden of proof that his ongoing right shoulder condition was caused by claimant's work-related injury of July 13, 2012. I also concur with the deputy commissioner's award of running healing period benefits from July 13, 2012, until such time as those benefits shall end. Therefore, I adopt the deputy commissioner's findings, conclusions and analysis regarding these issues.

#### ORDER

IT IS THEREFORE ORDERED that the arbitration decision of December 26, 2014, is AFFIRMED in its entirety:

Defendants shall pay claimant temporary total disability benefits at the rate of five hundred seven and 09/100 dollars (\$507.09) from July 13, 2012, until such time as those benefits end, pursuant to Iowa Code section 85.33(1).

Defendants shall have a credit for benefits previously paid.


Defendants shall pay benefits in a lump sum with interest provided by law.

Pursuant to Iowa Code section 85.27, defendants shall provide medical care to claimant for his right shoulder condition and defendants shall direct claimant's medical care.

Defendants shall file subsequent reports of injury (SROI) as required by this agency pursuant to rules 876 IAC 3.1(2) and 876 IAC 11.7.

Defendants shall pay claimant the costs awarded in the arbitration decision in the amount of two thousand one hundred twenty-eight dollars (\$2,128.00) and defendants shall pay the costs of this appeal pursuant to rule 876 IAC 4.33.

Signed and filed this 18<sup>th</sup> day of February, 2016.

  
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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

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