

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

SHERRA YOUNG, n/k/a HALL,

Claimant,

vs.

CARGILL MEAT SOLUTIONS  
CORPORATION,

Employer,

and

THE INSURANCE COMPANY OF THE  
STATE OF PENNSYLVANIA,

Insurance Carrier,  
Defendants.

FILED  
MAR - 1 2019  
WORKERS' COMPENSATION

File No. 5033076

A P P E A L

D E C I S I O N

Head Note Nos: 1402.40; 1803; 2907;  
5-9998

Defendants Cargill Meat Solutions Corporation, employer, and its insurer, The Insurance Company of the State of Pennsylvania, appeal from an arbitration decision filed on November 6, 2017. Claimant Sherra Hall responds to the appeal. The case was heard on November 23, 2016, and it was considered fully submitted in front of the deputy workers' compensation commissioner on January 13, 2017.

The deputy commissioner found claimant carried her burden of proof that she sustained permanent disability of her cervical spine as a result of the stipulated injury which arose out of and in the course of claimant's employment with defendant-employer on May 4, 2010. The deputy commissioner found claimant sustained ten percent industrial disability as a result of the work injury, which entitles claimant to receive 50 weeks of permanent partial disability benefits commencing on May 4, 2010. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding in the amount of \$100.00.

Defendants assert on appeal that the deputy commissioner erred in finding claimant carried her burden of proof that she sustained any permanent disability as a result of the work injury and in awarding claimant any industrial disability benefits. Defendants assert the deputy commissioner erred in ordering defendants to pay claimant's costs of the arbitration proceeding.

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

Those portions of the proposed agency decision pertaining to issues not raised on appeal are adopted as a part of this appeal decision.

I have performed a de novo review of the evidentiary record and the detailed arguments of the parties and 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 arbitration decision filed on November 6, 2017, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis of all of the issues raised in the arbitration 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 her burden of proof that she sustained permanent disability of her cervical spine as a result of the work injury. I affirm the deputy commissioner's finding that claimant sustained ten percent industrial disability as a result of the work injury. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding in the amount of \$100. I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

#### ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on November 6, 2017, is affirmed in its entirety.

Defendants shall pay claimant fifty (50) weeks of permanent partial disability benefits at the stipulated weekly rate of four hundred forty one and 56/100 dollars (\$441.56), beginning on the stipulated commencement date of May 4, 2010.

Defendants shall receive a credit against the award for all weekly benefits paid to date. The parties have stipulated that defendants are entitled to receive a credit of twenty-five (25) weeks of permanent partial disability benefits previously paid.

Defendants shall pay accrued weekly benefits in a lump sum together with interest pursuant to Iowa Code section 85.30.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding in the amount of \$100.00, 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 on this 1<sup>st</sup> day of March, 2019.

*Joseph S. Cortese II*

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JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

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