

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

RHONDA CONNER,
Claimant,
vs.
UNITED PARCEL SERVICE,
Employer,
and
LIBERTY INSURANCE CORP.,
Insurance Carrier,
Defendants.

File No. 5051783

ORDER

NUNC PRO TUNC

FILED

FEB 28 2019

WORKERS' COMPENSATION

On February 15, 2019, the undersigned filed an appeal decision in this case. On February 26, 2019, claimant filed an application for order nunc pro tunc. Defendants filed a response on February 27, 2019, indicating their agreement with claimant's application.

In the order section of the appeal decision, I included the paragraph regarding interest for injuries occurring on and after July 1, 2017. This was a scrivener's error.

The phrase, "nunc pro tunc" means "now for then." See Black's Law Dictionary, p. 1218 (Revised 4th Edition 1968). The definition 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." Id. 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 Serv., 760 N.W.2d 208 (Iowa Ct. App. 2008) (table).

I intended to refer to the interest provision applicable to injuries occurring prior to July 1, 2017. I therefore conclude an order nunc pro tunc should be issued to correct the scrivener's error in the Order on page 9 of the appeal decision.

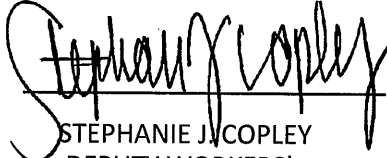
THEREFORE, IT IS ORDERED:

Claimant's motion for order nunc pro tunc is sustained.

The fourth paragraph of the Order on page 9 of the appeal decision is amended to state:

Defendants shall pay accrued weekly benefits in a lump sum together with interest at the rate of ten percent for all weekly benefits payable and not paid when due which accrued before July 1, 2017, and all interest on past due weekly compensation benefits accruing on or after July 1, 2017, shall be payable at an annual rate equal to the one-year treasury constant maturity published by the federal reserve in the most recent H15 report settled as of the date of injury, plus two percent. See Gamble v. AG Leader Technology, File No. 5054686 (App. Apr. 24, 2018)

Signed and filed this 28th day of February, 2019.


STEPHANIE J. COPLEY
DEPUTY WORKERS'
COMPENSATION COMMISSIONER

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SJC/blj