

BEFORE THE IOWA WORKERS' COMPENSATION COMMISSIONER

ALAN STREICHER,

Claimant,

vs.

CNH INDUSTRIAL AMERICA, LLC,

Employer,

and

INDEMNITY INSURANCE COMPANY  
OF N. AMERICA,

Insurance Carrier,  
Defendants.

File No. 5065715

A P P E A L

D E C I S I O N

Head Notes: 1402.30; 1803; 1808; 2401;  
2402; 2501; 2801; 2803;  
2907; 5-9998

Defendants CNH Industrial America, LLC, employer, and its insurer, Indemnity Insurance Company of N. America, appeal from an arbitration decision filed on April 29, 2019. Claimant Alan Streicher responds to the appeal. The case was heard on March 11, 2019, and it was considered fully submitted in front of the deputy workers' compensation commissioner at the conclusion of the arbitration hearing.

The deputy commissioner found claimant carried his burden of proof to establish he sustained cumulative injuries to his bilateral upper extremities which arose out of and in the course of his employment with the defendant-employer on or about August 20, 2016. The deputy commissioner found defendants failed to establish the affirmative defenses of lack of timely notice under Iowa Code section 85.23, and statute of limitations under Iowa Code section 85.26. The deputy commissioner found that pursuant to Iowa Code section 85.34(2)(s), claimant sustained permanent scheduled member functional disability of ten percent of the body as a whole, which entitles claimant to receive 50 weeks of permanent partial disability benefits commencing on August 21, 2016. The deputy commissioner found defendants are responsible for ongoing medical care related to the bilateral upper extremity injuries. The deputy commissioner ordered defendants to pay claimant's costs of the arbitration proceeding.

Defendants assert on appeal that the deputy commissioner erred in finding claimant provided timely notice of his work injury. Defendants further assert the deputy commissioner erred in finding claimant filed his petition for arbitration benefits within two years of the alleged injury date. Defendants also assert the deputy commissioner erred in finding claimant sustained permanent disability as a result of the work injury.

Defendants assert the deputy commissioner erred in finding defendants are responsible for future medical care.

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 performed a de novo review of the evidentiary record and the detailed arguments of the parties. Pursuant to Iowa Code sections 17A.15 and 86.24, I affirm and adopt as the final agency decision those portions of the proposed arbitration decision filed on April 29, 2019, which relate to the issues properly raised on intra-agency appeal.

I find the deputy commissioner provided a well-reasoned analysis of all 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 sustained a permanent work-related injury on or about August 20, 2016. I affirm the deputy commissioner's finding that defendants failed to establish the affirmative defenses of lack of timely notice under Iowa Code section 85.23, and statute of limitations under Iowa Code section 85.26. I affirm the deputy commissioner's finding that claimant sustained permanent scheduled member functional disability of ten percent of the body as a whole as a result of the work injury. I affirm the deputy commissioner's finding that defendants are responsible for claimant's ongoing medical care for the work injury. I affirm the deputy commissioner's order that defendants pay claimant's costs of the arbitration proceeding.

I affirm the deputy commissioner's findings, conclusions and analysis regarding those issues.

#### ORDER

IT IS THEREFORE ORDERED that the arbitration decision filed on April 29, 2019, is affirmed in its entirety.

Defendants shall pay claimant fifty (50) weeks of permanent partial disability benefits at the weekly rate of nine hundred twenty-six and 30/100 dollars (\$926.30), commencing on August 21, 2016.

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

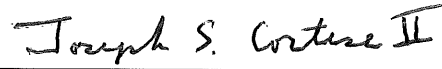
recent H15 report settled as of the date of injury, plus two percent. See. Gamble v. AG Leader Technology, File No. 5054686 (App. Apr. 24, 2018)

Defendants shall pay all future medical expenses necessitated by the work injury.

Pursuant to rule 876 IAC 4.33, defendants shall pay claimant's costs of the arbitration proceeding, 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 14<sup>th</sup> day of May, 2020.



---

JOSEPH S. CORTESE II  
WORKERS' COMPENSATION  
COMMISSIONER

The parties have been served as follows:

Paul Salabert, Jr.            Via WCES

Timothy W. Wegman        Via WCES

Alison Stewart             Via WCES