

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

MARY JO STOLLE,)	
)	
Claimant,)	IC 04-001592
)	
v.)	
)	
CHRISTINE BENNETT,)	ORDER DENYING
)	RECONSIDERATION
)	
Employer,)	
Defendant.)	FILED SEPT. 22, 2005
_____)	

Pursuant to Idaho Code § 72-718, Claimant Mary Jo Stolle moves for reconsideration of the Order entered by the Industrial Commission on July 15, 2005. Claimant contends the Commission’s decision is erroneous and contrary to the evidence. Claimant asserts that improper exhibits were admitted while appropriate exhibits and testimony were excluded. Defendant responds that Claimant’s motion is frivolous and without merit. Defendant requests attorney fees and costs for having to defend such a groundless motion.

After reviewing the record, the Commission is not persuaded by Claimant’s arguments. Claimant’s attorney arrived at hearing ill prepared to have exhibits admitted into the record. As a result, throughout the hearing there was confusion as to what had been admitted, what letter to assign to new admissions, and whether duplicate exhibits were admitted. On reconsideration, Claimant’s attorney is attempting to capitalize on the very chaos that he created.

The Idaho Supreme Court has consistently recognized the Industrial Commission “as the arbiter of conflicting facts and has acknowledged that the weight to be accorded evidence is within the Commission’s particular province.” Gage v. Express Personnel, 135 Idaho 250, 253, 16 P.3d 926, 929 (2000). “Because the Commission is the fact finder, its conclusions on the credibility and weight of the evidence will not be disturbed on appeal unless they are clearly erroneous.” Rivas v. K.C. Logging, 134 Idaho 603, 607, 7 P.3d 212, 216 (2000). In the present

case, the Commission conducted a thorough review of the evidence and considered the arguments of the parties prior to rendering its original decision. The Commission's decision is supported by the record.

Based on the foregoing, Claimant's Motion for Reconsideration should be, and is hereby, DENIED.

Defendant requests sanctions against Claimant's attorney in the form of attorney fees and costs. Although lack of preparation with exhibits was the catalyst that caused the problems upon which Claimant's attorney makes his current motion, the motion does not rise to the level of an abuse of the Commission's rules or procedures. Rule 16, J.R.P. Accordingly, Defendant's request for attorney fees and costs is DENIED.

DATED this _22nd day of _September, 2005.

INDUSTRIAL COMMISSION

/s/
Thomas E. Limbaugh, Chairman

/s/
James F. Kile, Commissioner

/s/
R. D. Maynard, Commissioner

ATTEST:

/s/
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the _22nd day of _September, 2005, a true and correct copy of the foregoing **ORDER DENYING RECONSIDERATION** was served by regular United States Mail upon each of the following persons:

SCOTT ROSE
300 MAIN ST STE 153
BOISE ID 83702

NATALIE CAMACHO MENDOZA
623 W HAYS ST
BOISE ID 83702

_____/s/_____