

EVIDENCE CONSIDERED

The record in this matter consists of the following:

1. The Affidavit of Claimant, dated September 27, 2005;
2. Claimant's Exhibits A – F; and
3. The legal file of this matter.

After having fully considered all of the above evidence, the Referee submits the following findings of fact and conclusions of law for review by the Commission.

FINDINGS OF FACT

1. Claimant suffered a compensable industrial accident when he fell from a roof on January 29, 2003. He suffered fractures of his hip, heel, and two ribs, as well as an injury to his wrist and head.

2. Reasonable medical treatment was provided. The charges for reasonable medical treatment amounted to \$18,597.19.

3. Employer failed to obtain a policy of workers' compensation insurance as required by law. Employer unreasonably failed or refused to pay for the reasonable medical treatment required as a result of the industrial accident and for other benefits due Claimant under Idaho Workers' Compensation Law.

4. Claimant was totally temporarily disabled during his period of recovery from the date of the accident until April 15, 2003. On that date Ram R. Krishna, M.D., released him with restrictions of not lifting 75 pounds or more and no "jumping off of the back of the forklift." He returned to work on that date and received his regular wage.

5. Claimant's average weekly wage was \$440.00 per week.

DISCUSSION AND FURTHER FINDINGS

6. Claimant showed he is entitled to benefits for reasonable medical care in the amount of \$18,597.19.

7. Claimant showed he is entitled to total temporary disability benefits in the amount of \$3,242.80.

8. Claimant failed to show he is entitled to temporary disability benefits after April 15, 2003. On that date, he returned to work and to earning his pre-accident wage. The facts asserted by Claimant in support of temporary disability beyond that date do not establish a basis for an award of temporary disability under Idaho Workers' Compensation Law.

9. Claimant showed he is entitled to an award of attorney fees under Idaho Code §§ 72-804 and/or 72-210. Claimant is entitled to an award of costs under Idaho Code § 72-210. Claimant is entitled to an award of reasonable attorney fees in the amount of 25% of awarded benefits, which is \$5,460.00. IDAPA 17.02.08.033.01.e.i. Costs are awarded in the amount of \$343.49.

10. Pursuant to Idaho Code § 72-210, Claimant is entitled to collect a penalty of an additional 10% of benefits awarded, which penalty amounts to \$2,184.00.

CONCLUSIONS OF LAW

1. Claimant is entitled to benefits for medical care in the amount of \$18,597.19;
2. Claimant is entitled to TTDs in the amount of \$3,242.80;
3. Claimant is not entitled to temporary disability benefits after April 15, 2003;
4. Claimant is entitled to an award of attorney fees in the amount of \$5,460.00 and costs in the amount of \$343.49; and
5. Claimant is entitled to collect a penalty of an additional 10% of benefits awarded,

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION - 3

which penalty amounts to \$2,184.00.

6. The issues of permanent impairment and permanent disability are reserved.

RECOMMENDATION

The Referee recommends that the Commission adopt the foregoing Findings of Fact and Conclusions of Law as its own and issue an appropriate final order.

DATED this 1ST day of NOVEMBER, 2005.

INDUSTRIAL COMMISSION

/S/ _____
Douglas A. Donohue, Referee

ATTEST:

/S/ _____
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 14TH day of NOVEMBER, 2005, a true and correct copy of the foregoing **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION** was served by regular United States Mail upon each of the following:

Rami Amaro
1875 N. Lakewood Dr., Ste. 102
Coeur d'Alene, ID 83814

D.C. Foster Construction
2994 West Midway Avenue
Post Falls, ID 83854

D.C. Foster Construction
6655 North Snowberry Street
Dalton Gardens, ID 83815

db /S/ _____

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

ALAN T. TAYLOR,)
)
 Claimant,) **IC 03-002284**
)
 v.)
)
 D.C. FOSTER CONSTRUCTION,) **ORDER**
)
 Employer,) **FILED NOV 14 2005**
 Defendant.)
_____)

Pursuant to Idaho Code § 72-717, Referee Douglas A. Donohue submitted the record in the above-entitled matter, together with his proposed findings of fact and conclusions of law to the members of the Industrial Commission for their review. Each of the undersigned Commissioners has reviewed the record and the recommendations of the Referee. The Commission concurs with these recommendations. Therefore, the Commission approves, confirms, and adopts the Referee's proposed findings of fact and conclusions of law as its own.

Based upon the foregoing reasons, IT IS HEREBY ORDERED that:

1. Claimant is entitled to benefits for medical care in the amount of \$18,597.19.
2. Claimant is entitled to TTDs in the amount of \$3,242.80.
3. Claimant is not entitled to temporary disability benefits after April 15, 2003.
4. Claimant is entitled to an award of attorney fees in the amount of \$5,460.00 and costs in the amount of \$343.49.
5. Claimant is entitled to collect a penalty of an additional 10% of benefits awarded, which penalty amounts to \$2,184.00.
6. The issues of permanent impairment and permanent disability are reserved.

7. Pursuant to Idaho Code § 72-718, this decision is final and conclusive as to all issues adjudicated.

DATED this 14TH day of NOVEMBER, 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 14TH day of NOVEMBER, 2005, a true and correct copy of the foregoing **ORDER** was served by regular United States Mail upon each of the following:

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