

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

JIMMIE F. ANDERSON,)

Claimant,)

v.)

HENRY FERNANDEZ and)
LINDA PENCE,)

Employers,)
Defendants.)

IC 2005-011929

**ORDER DENYING
RECONSIDERATION**

Filed December 19, 2007

On November 7, 2007, Claimant filed a motion requesting reconsideration of the Industrial Commission's decision filed October 25, 2007, in the above referenced case. Defendants Henry Fernandez and Linda Pence filed a response on November 23, 2007. Claimant did not file a reply.

In the motion, Claimant asks for reconsideration of the Commission's conclusion that Claimant did not suffer an injury as the result of an accident that occurred in the course of his employment. Claimant argues that the Commission erred by requiring the injury to be located as to a particular time and a particular place.

Defendants aver that the decision specifically addressed the standard requiring an accident to be reasonably located as to time when and place where the accident occurred. Defendants argue that the Commission properly applied the standard, as well as the relevant case law, and found that Claimant failed to carry his burden.

Claimant testified that he was injured on September 7, 2005, and September 9, 2005, while loading electric motors and moving cardboard. The Commission found the weight of the evidence in

the record established that it was not possible for either event to have occurred on the dates identified in Claimant's testimony.

Claimant argues that it should be enough for Claimant to identify the accident as occurring while loading a shipment of motors. The Commission's analysis took into account all admitted evidence. The Commission decision found that while Claimant had sustained some injury to his back, it could not be determined from the record in this proceeding whether those injuries were acute or degenerative. And if acute, it could not be determined from the record when or how they occurred.

Although Claimant disagrees with the Commission's findings and conclusion, the facts and arguments raised by Claimant's request for reconsideration were considered and decided by the Commission in the original decision. The Commission's decision of October 25, 2007, in the above referenced case, is supported by substantial evidence in the record and Claimant has presented no persuasive argument to disturb the decision.

Based upon the foregoing reasons, Claimant's Motion for Reconsideration is DENIED.

IT IS SO ORDERED.

DATED this _19th_ day of December, 2007.

INDUSTRIAL COMMISSION

_____/s/_____
James F. Kile, Chairman

R.D. Maynard, Commissioner

_____/s/_____
Thomas E. Limbaugh, Commissioner

ATTEST:

_____/s/_____
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on _19th_ day of December, 2007, a true and correct copy of the foregoing ORDER DENYING RECONSIDERATION was served by regular United States Mail upon each of the following:

DANIEL J LUKER
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_____/s/_____
