

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

JEFFREY K. DAY,)
)
 Claimant,) **IC 2008-014597**
 v.)
)
 WILLIAM CAFARELLI,) **FINDINGS OF FACT,**
) **CONCLUSIONS OF LAW,**
 Employer,) **AND RECOMMENDATION**
 Uninsured,)
 Defendant.) **FILED APR - 2 2009**
)

INTRODUCTION

The Idaho Industrial Commission assigned this matter to Referee Douglas A. Donohue. Richard S. Owen represented Claimant. Employer failed to answer Claimant’s complaint. Default was entered. Claimant presented his *prima facie* case via affidavits and supporting documentation. The case is ready for decision.

EVIDENCE CONSIDERED

The record in this matter consists of the following:

1. The Affidavit of Claimant, dated March 24, 2009, with exhibits;
2. The Affidavit of Richard S. Owen, dated March 24, 2009, with exhibits;
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 an eye laceration working within the course and scope of his employment with Employer. The accident occurred on March 6, 2008.

RECOMMENDATION - 1

2. The accident required medical treatment, which was provided. The charges for reasonable medical treatment amounted to \$11,841.77. A portion of this amount was turned over to collections and interest continues to accrue.

3. As a result of the injury, Claimant suffered permanent partial impairment (PPI) rated by his physician at 1%. This translates to \$1,699.50.

4. As a further result of the injury, Claimant suffered temporary disability for which he is entitled to benefits in the amount of \$1,148.60.

5. Employer failed to obtain a policy of workers' compensation insurance as required by law. The 10% penalty applies.

6. Employer unreasonably failed or refused to pay for the reasonable medical treatment required as a result of the industrial accident. This required Claimant to incur attorney fees and costs. Costs were established as being \$75.00.

DISCUSSION AND FURTHER FINDINGS

7. The record provided by Claimant in this matter establishes his entitlement to medical benefits in the amount of \$11,841.77, plus accruing interest.

8. The record provided by Claimant in this matter establishes his entitlement to PPI benefits in the amount of \$1,699.60 and temporary disability in the amount of \$1,148.60. Claimant's total compensation—medical and non-medical—amounts to \$14,689.97.

9. The record provided establishes that Employer is subject to liability for failure to insure as set forth at Idaho Code § 72-210 in the amount of \$1,469.00.

10. The record provided by Claimant in this matter establishes his entitlement to costs in the amount of \$75.00

RECOMMENDATION - 2

11. The record provided establishes Employer is subject to the attorney fee provisions of Idaho Code §§ 72-210 and/or 72-804. Pursuant to IDAPA 02.08.33.01(e)(i), Claimant should be awarded attorney fees in the amount of \$4,847.69.

CONCLUSIONS OF LAW

1. Claimant is entitled to an award of \$11,841.77 for medical care benefits, plus interest charged by assignment of medical bills and accruing on and after the date of Claimant's submission of proof, March 24, 2009;

2. Claimant is entitled to an award of \$1,699.60 for PPI;

3. Claimant is entitled to an award of \$1,148.60 for temporary disability;

4. Claimant is entitled to an award of 10% of total compensation by application of Idaho Code § 72-210 in the amount of \$1,469.00;

5. Claimant is entitled to an award of costs in the amount of \$75.00; and

6. Claimant is entitled to an award of \$4,847.69 for attorney fees by application of either Idaho Code §§ 72-210 and/or 72-804.

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 day of March, 2009.

INDUSTRIAL COMMISSION

/S/ _____
Douglas A. Donohue, Referee

ATTEST:

/S/ _____
Assistant Commission Secretary

db

RECOMMENDATION - 3

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

JEFFREY K. DAY,)
)
 Claimant,) **IC 2008-014597**
 v.)
)
 WILLIAM CAFARELLI,) **ORDER**
)
 Employer,)
 Uninsured,) FILED APR - 2 2009
 Defendant.)
 _____)

Pursuant to Idaho Code § 72-717, Referee Douglas A. Donohue submitted the record in the above-entitled matter, together with his recommended findings of fact and conclusions of law to the members of the Idaho 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 an award of \$11,841.77 for medical care benefits, plus interest charged by assignment of medical bills and accruing on and after the date of Claimant’s submission of proof, March 24, 2009.
2. Claimant is entitled to an award of \$1,699.60 for PPI.
3. Claimant is entitled to an award of \$1,148.60 for temporary disability.
4. Claimant is entitled to an award of 10% of total compensation by application of Idaho Code § 72-210 in the amount of \$1,469.00.
5. Claimant is entitled to an award of costs in the amount of \$75.00.

6. Claimant is entitled to an award of \$4,847.69 for attorney fees by application of either Idaho Code §§ 72-210 and/or 72-804.

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

DATED this 2ND day of APRIL, 2009.

INDUSTRIAL COMMISSION

/S/ _____
R. D. Maynard, Chairman

/S/ _____
Thomas E. Limbaugh, Commissioner

Thomas P. Baskin, Commissioner

ATTEST:

/S/ _____
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 2ND day of APRIL, 2009, a true and correct copy of **FINDINGS, CONCLUSIONS, AND ORDER** were served by regular United States Mail upon each of the following:

Richard S. Owen
P.O. Box 278
Nampa, ID 83653

William Cafarelli
2309 Mountain View
Boise, ID 83706

db

/S/ _____

ORDER - 2