BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

MARK N. ANDERSON, Claimant, v. MARCUS & MARCUS, INC., Employer, and IDAHO STATE INSURANCE FUND, Surety, Defendants.	))))

disability in excess of impairment was appropriate.

In his motion for reconsideration, Claimant argues that he is entitled to TTD benefits beyond August 10, 2007. Claimant contends that he was not released to return to work on August 10, 2007. He states that sometime in November 2007 he felt ready to go back to work.

Defendants aver that the medical evidence established that Claimant was able to work without any restrictions on August 10, 2007. Claimant did not present any medical evidence, based on a reasonable degree of medical probability, that he was unable to work after August 10, 2007, due to his industrial injury.

Under Idaho Code § 72-718, a decision of the commission, in the absence of fraud, shall be final and conclusive as to all matters adjudication; provided, within twenty (20) days from the date of filing the decision any party may move for reconsideration or rehearing of the decision . . . and in any such events the decision shall be final upon denial or a motion for rehearing or reconsideration or the filing of the decision on rehearing or reconsideration. J.R.P. 3(f) states that a motion to reconsider "shall be supported by a brief filed with the motion."

On reconsideration, the Commission will examine the evidence in the case, and determine whether the evidence presented supports the legal conclusions. The Commission is not compelled to make findings on the facts of the case during a reconsideration. Davison v. H.H. Keim Co., Ltd., 110 Idaho 758, 718 P.2d 1196. The Commission may reverse its decision upon a motion for reconsideration, or rehearing of the decision in question, based on the arguments presented, or upon its own motion, provided that it acts within the time frame established in Idaho Code § 72-718. *See*, Dennis v.School District No. 91, 135 Idaho 94, 15 P.3d 329 (2000) (citing Kindred v. Amalgamated Sugar Co., 114 Idaho 284, 756 P.2d 410 (1988)).

A motion for reconsideration must be properly supported by a recitation of the factual findings and/or legal conclusions with which the moving party takes issue. However, the Commission is not inclined to re-weigh evidence and arguments during reconsideration simply because the case was not resolved in a party's favor.

Claimant argues that his testimony demonstrates that he was not healed and could not return to work on August 10, 2007. Claimant's testimony was fully considered by the Commission, but it ultimately found that the medical records were more credible because they were prepared contemporaneously by an uninterested party. Further, Claimant did not seek additional medical treatment for his injury after August 10, 2007.

Claimant also avers that the same sort of professional that issued the light duty restriction should also release a claimant back to unrestricted work. In this case, Jim Corbett, a physician's assistant, placed Claimant on light duty on August 4, 2007. Dr. Farahmand released Claimant to work without restrictions on August 10, 2007, with the caveat that if the pain worsens he should plan for light duty. As noted above, the persuasive evidence establishes that Claimant did not have increased pain. The medical professionals are indeed what the Commission relied upon to find Claimant's period of recovery, August 4-10, 2007.

The Commission has reviewed the record with a focus on the concerns that Claimant has raised in the motion for reconsideration and concludes that the facts support the decision issued on June 10, 2010. The Commission's analysis took into account all the documentary evidence and testimony and found that Claimant proved his entitlement to the medical care he had previously received and one day of TTD benefits. The Commission finds the decision is supported by substantial evidence in the record and Claimant has presented no persuasive argument to disturb the decision finding that Claimant is only entitled to one day of TTD

benefits.

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

IT IS SO ORDERED.

DATED this ___5th_ day of August, 2010.

INDUSTRIAL COMMISSION

__/s/_____
R.D. Maynard, Chairman

_/s/_____
Thomas E. Limbaugh, Commissioner

__/s/_____
Thomas P. Baskin, Commissioner

ATTEST:

__/s/_____
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on ___5th__ day of August, 2010, a true and correct copy of the foregoing **ORDER DENYING RECONSIDERATION** was served by regular United States Mail upon each of the following:

MARK N ANDERSON
5363 LOCKPORT DRIVE
BOISE ID 83703

BRADLEY J STODDARD
PO BOX 896
COEUR D'ALENE ID 83814-0896

sb/cjh ___/s/_____