

**BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO**

TENEILLE HOGGE,

Claimant,

v.

NAPOLEONS FOR MEN, INC.,

Employer,

and

STATE INSURANCE FUND,

Surety,

Defendants.

**IC 2004-524023**

**ORDER DENYING  
RECONSIDERATION**

**Filed May 9, 2012**

---

The above-entitled matter is pending before the Industrial Commission on Claimant's Motion for Reconsideration filed March 30, 2012. Defendants filed a response on April 12, 2012.

Pursuant to Idaho Code § 72-718 a party has twenty (20) days from the date a decision of the Commission has been filed within which to move for reconsideration. If no motion to reconsider has been made within 20 days, the decision shall be final and conclusive and may be appealed to the Supreme Court. Rule 3(F), Judicial Rules of Practice and Procedure.

The Industrial Commission filed its Recommendation and Order on March 8, 2012. Claimant signed and dated the motion for reconsideration on March 28, 2012, 20 days after the filing of the Commission's decision. The motion was faxed and filed on March 30, 2012, 22 days after the filing of the Commission's decision. The Idaho Supreme Court has ruled that

**ORDER DENYING RECONSIDERATION - 1**

when a motion for reconsideration was in the mail 20 days after the decision and received 21 after the decision, the motion is timely. *Wright v. Willer*, 111 Idaho 474, 725 P.2d 179 (1986). Accordingly, a motion for reconsideration is deemed made on the day it is mailed, faxed, or hand delivered to the Commission. While Claimant did sign and date the motion on the last available day, the motion was not faxed until March 30, 2012. Thus, Claimant's motion was made 2 days late and is untimely.

Based upon the foregoing reasons, Claimant's motion for reconsideration is DENIED.

IT IS SO ORDERED.

DATED this 9th day of May, 2012.

INDUSTRIAL COMMISSION

/s/ \_\_\_\_\_  
Thomas E. Limbaugh, Chairman

/s/ \_\_\_\_\_  
Thomas P. Baskin, Commissioner

\_\_\_\_\_  
R. D. Maynard, Commissioner

ATTEST:

/s/ \_\_\_\_\_  
Assistant Commission Secretary

**CERTIFICATE OF SERVICE**

I hereby certify that on   9th   day of   May  , 2012, a true and correct copy of the foregoing **ORDER DENYING RECONSIDERATION** was served by regular United States Mail upon each of the following:

TENEILLE HOGGE  
PO BOX 696  
NEW PLYMOUTH ID 83655

NEIL D MCFEELEY  
PO BOX 1368  
BOISE ID 83701-1368

  /s/  \_\_\_\_\_