

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

KYLE ADAMS,

Claimant,

v.

WALTERS & WALTERS, A JOINT  
VENTURE,

Employer,

and

STATE INSURANCE FUND,

Surety,

Defendants.

**IC 2013-004834**

**ORDER GRANTING REQUEST FOR  
RECONSIDERATION**

**Filed 2/9/15**

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On January 6, 2015, Claimant timely requested reconsideration of the Commission's December 24, 2014 Order Dismissing Complaint, without prejudice. Prior to the Commission's Order Dismissing Complaint, Referee Donohue sent the parties a Notice of Intent to Recommend Dismissal ("Notice") on November 21, 2014, due to case inactivity. The Notice gave Claimant twenty-one (21) days to respond and/or object to the recommendation. Claimant did not file a response to the recommendation. On December 24, 2014, the Commissioners issued an Order Dismissing Complaint.

Claimant's attorney submitted an affidavit in support of the request for reconsideration. Claimant's attorney stated that his office was unable to locate the Commission's Notice, and has no record or knowledge of receiving the same. Claimant's attorney presents that he has been very diligent about filing motions to retain in other cases, but did not in this case because he did not receive the Notice. Claimant requests that the Commission retain this case.

## DISCUSSION

Under Idaho Code § 72-718, a decision of the Commission, in the absence of fraud, shall be final and conclusive as to all matters adjudicated; provided, that within twenty (20) days from the date of filing the decision any party may move for reconsideration or rehearing of the decision. The Commission is not compelled to make findings on the facts of the case during 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)).

In this case, the sole issue is whether Claimant has shown the Complaint should be reinstated. Claimant's oversight is isolated and Claimant promptly acted to mitigate the consequences of such. Defendants have not objected to Claimant's request, and Defendants are not prejudice by a reinstatement of the Complaint. Claimant has shown good cause for reinstatement of the Complaint.

## ORDER

Based on the foregoing reasons, Claimant's request for reconsideration is GRANTED. Claimant's Complaint is reinstated.

IT IS SO ORDERED.

DATED this 9th day of February, 2015.

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 the 9th day of February, 2015, a true and correct copy of the foregoing **ORDER GRANTING REQUEST FOR RECONSIDERATION** was served by regular United States Mail upon each of the following persons:

ROBERT BECK  
3456 E 17<sup>TH</sup> ST, SUITE 215  
IDAHO FALLS, ID 83406

V. DEAN DALLING  
859 S. YELLOWSTONE HWY, STE 306  
REXBURG, ID 83440

\_\_\_\_\_/s/\_\_\_\_\_