

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

KATHLEEN HANSON,

Claimant,

v.

UNITED PARCEL SERVICE,

Employer,

and

LIBERTY INSURANCE CORP.,

Surety, and

STATE OF IDAHO, INDUSTRIAL
SPECIAL INDEMNITY FUND,

Defendants.

IC 2007-038562

2009-025929

2010-014499

2010-016099

**ORDER GRANTING
RECONSIDERATION
AND
REINSTATING THE COMPLAINT
AGAINST ISIF**

Filed 6/4/15

On May 6, 2015, Defendant Employer/Surety filed a Motion and Brief in Support of Reconsideration of the 4/30/15 Order Dismissing Complaint Against The Industrial Special Indemnity Fund. No response has been filed.

A decision was issued in this matter on May 14, 2014, concluding that Claimant's total and permanent disability resulted from a non-industrial condition. Thus, neither Employer/Surety nor the Industrial Special Indemnity Fund (ISIF) are liable for permanent disability benefits. The case is now set for hearing in July 2015, on other issues.

On April 22, 2015, the Commission received a stipulation for the dismissal of ISIF signed by Claimant and ISIF. Employer/Surety did not sign the stipulation, nor was it served on Employer/Surety. The Commission then issued an Order Dismissing Complaint Against The Industrial Special Indemnity Fund on April 30, 2015.

**ORDER GRANTING RECONSIDERATION
AND REINSTATING THE COMPLAINT AGAINST ISIF - 1**

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, 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 of a motion for rehearing or reconsideration or the filing of the decision on rehearing or reconsideration.

In the motion for reconsideration, Employer/Surety contends that the potential exists for an appeal to be taken to the Idaho Supreme Court where issues relating to permanent disability could be revisited, requiring ISIF participation. Employer/Surety was not given notice of the stipulation dismissing ISIF. Further, the stipulation only addressed a single claim and the order dismissing ISIF improperly dismissed the four consolidated claims.

The Commission has reviewed the record and finds the dismissal was not warranted given the circumstances of this case and the lack of notice to Employer/Surety. Additionally, no response or objection has been made to the motion for reconsideration.

Based upon the foregoing reasons, Claimant's Motion for Reconsideration is GRANTED. The complaint against Defendant ISIF is reinstated. ISIF shall be served with any pleadings that may have been issued after its dismissal.

IT IS SO ORDERED.

DATED this __4th__ day of _June_, 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 4th day of June, 2015, a true and correct copy of the foregoing **ORDER GRANTING RECONSIDERATION AND REINSTATING THE COMPLAINT AGAINST ISIF** was served by regular United States Mail upon each of the following:

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_____/s/_____