

P.3d 920 (2005). The Commission is not inclined to re-weigh evidence and arguments simply because the case was not resolved in the party's favor.

A motion for reconsideration must be properly supported by a recitation of the factual findings or legal conclusions with which the moving party takes issue. On reconsideration, the Commission will examine the evidence in the case, and determine whether the evidence presented supports the legal conclusions in the decision. However, the Commission is not compelled to make findings of fact during reconsideration. *Davidson v. H.H. Keim Co.*, 110 Idaho 758, 718 P.2d 1196 (1986).

Claimant disagrees with the Commission's conclusion that he failed to prove permanent disability in excess of impairment. Claimant admits he is an undocumented worker. The majority of the Commission found that Claimant's loss of earning capacity is due to his status as an undocumented worker, not his industrial injury.

There are compelling policy reasons that support Claimant's arguments. However, Claimant's arguments, while compelling, are unpersuasive. The substantial, competent evidence in this case supports the majority's conclusion that Claimant failed to prove permanent disability in excess of impairment. For that reason, Claimant's motion for reconsideration is DENIED.

IT IS SO ORDERED.

DATED this 23rd day of February, 2010.

INDUSTRIAL COMMISSION

/s/
R.D. Maynard, Chairman

/s/
Thomas E. Limbaugh, Commissioner

Com. Baskin dissented on underlying case
Thomas P. Baskin, Commissioner

ATTEST:

/s/
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of February, 2010, a true and correct copy of the foregoing **ORDER DENYING RECONSIDERATION** was served by regular United States Mail upon each of the following:

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eb/cjh

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