

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

MARCELINA JIMENEZ,)	
)	
Claimant,)	IC 2007-005874
v.)	
)	
CONAGRA FOODS, INC.,)	ORDER DISMISSING
)	CLAIMANT’S MOTION
Employer,)	FOR RECONSIDERATION
Self-insured,)	
Defendant.)	filed February 23, 2010
_____)	

On December 3, 2009, Claimant failed to appear for hearing in the above-captioned case. Defendant moved for dismissal. The Referee issued an order permitting Claimant fourteen days to show cause for her failure to appear. Claimant failed to respond to the order. On December 30, 2009, the Commission dismissed the case with prejudice.

On January 25, 2010, Claimant mailed a letter to the Commission, which the Commission construed as a motion for reconsideration. Claimant attributed her failure to attend the hearing to a severe headache and asked for another opportunity to prosecute her claim. Defendant objected to the motion because it was untimely filed.

A decision of the Commission, in the absence of fraud, shall be final and conclusive as to all matters adjudicated, provided that within twenty days from the date of filing the decision, any party may move for reconsideration. Idaho Code § 72-718. In this case, the Commission’s decision was filed on December 30, 2009. Claimant thus had until January 19, 2010 to move for reconsideration. Claimant failed to file her motion within the time allotted by statute. The Commission therefore lacks jurisdiction to consider the motion.

Accordingly, Claimant’s motion for reconsideration is DISMISSED.

IT IS SO ORDERED.

DATED this 23rd day of February, 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 the 23rd day of February, 2010, a true and correct copy of the foregoing **ORDER DISMISSING CLAIMANT'S MOTION FOR RECONSIDERATION** was served by regular United States Mail upon each of the following:

MARCELINA JIMENEZ
PO BOX 2972
TWIN FALLS ID 83303

ERIC BAILEY
PO BOX 1007
BOISE ID 83701-1007

eb/cjh

/s/