

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

MATTHEW MAZZONE,)
)
 Claimant,)
)
 v.)
)
 TEXAS ROADHOUSE, INC.,)
)
 Employer,)
)
 and)
)
 HARTFORD INSURANCE COMPANY)
 OF THE MIDWEST,)
)
 Surety,)
)
 Defendants.)
 _____)

IC 2005-012469

**ORDER DENYING
REQUEST FOR REHEARING**

Filed September 19, 2011

On August 24, 2011, Claimant filed a timely Request for Rehearing on the issue decided in the Industrial Commission’s order filed August 5, 2011, in the above referenced case. Defendants filed a response on September 1, 2011. No reply was filed.

In the underlying decision the Commission concluded that Claimant failed to prove he is entitled to compensation for a psychological injury as a result of his November 13, 2005 industrial accident and injury pursuant to Idaho Code § 72-451.

Claimant’s request for rehearing simply states that “Claimant provided clear and convincing evidence that his post traumatic stress disorder was causally related to his industrial injury.” There is no further explanation and the request is not accompanied by a supporting brief.

Defendants argue that Claimant's motion should be denied because it was not filed along with a supportive brief in accordance with JRP 3(F).

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. JRP 3(F) states that a motion to reconsider "shall be supported by a brief filed with the motion."

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)).

A motion for rehearing must be properly supported by a recitation of the factual findings and/or legal conclusions with which the moving party takes issue. However, the Commission is not inclined to re-weigh evidence and arguments during reconsideration or rehearing simply because the case was not resolved in a party's favor.

The Commission agrees with Defendants that a motion to reconsider is properly denied if it is not supported by a brief filed with the motion as required by JRP 3(F). However, Claimant filed a Request for Rehearing, which is not specifically covered by JRP 3(F).

Regardless, the Commission finds no argument in Claimant's spare motion which would cause the Commission to revise its conclusions. The Commission's analysis took into account

all the documentary evidence and testimony. Although Claimant disagrees with the Commission's conclusion, the Commission finds the decision is supported by substantial evidence in the record and Claimant has presented no persuasive argument to disturb the decision.

Based upon the foregoing reasons, Claimant's Request for Rehearing is DENIED.

IT IS SO ORDERED.

DATED this __16th____ day of ____September_____, 2011.

INDUSTRIAL COMMISSION

_____/s/_____
Thomas E. Limbaugh, Chairman

_____/s/_____
Thomas P. Baskin, Commissioner

_____/s/_____
R.D. Maynard, Commissioner

ATTEST:

_____/s/_____
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on 16th day of September , 2011,
a true and correct copy of the foregoing **ORDER DENYING REQUEST FOR REHEARING**
was served by regular United States Mail upon each of the following:

STEPHEN A MEIKLE
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ALAN R GARDNER
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 /s/ _____