

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

JOAN TRUMBO,)	
)	
Claimant,)	IC 2007-018572
v.)	
)	
BRONCO CLEANING, INC.,)	FINDINGS OF FACT,
)	CONCLUSION OF LAW,
Employer,)	AND RECOMMENDATION
and)	
)	
IDAHO STATE INSURANCE FUND,)	FILED FEB - 4, 2010
)	
Surety,)	
Defendants.)	
_____)	

INTRODUCTION

Pursuant to Idaho Code § 72-506, the Idaho Industrial Commission assigned this matter to Referee Douglas A. Donohue. He conducted a hearing in Boise on January 29, 2010. Claimant, *pro se*, did not appear. Max Sheils represented Defendants. Mr. Sheils made an oral motion for dismissal with prejudice. The case came under advisement and is now ready for decision.

After examining the record, the Referee submits the following findings of fact, conclusion of law, and recommendation for review by the Commission.

FINDINGS OF FACT

1. Claimant filed a complaint on March 26, 2009.
2. Claimant’s attorney withdrew upon motion and order granting his withdrawal on August 26, 2009. Thereafter, Claimant did not substantially prosecute her claim.
3. Notice of hearing was duly sent to Claimant. On November 16, 2009, Claimant appeared telephonically for a conference regarding her failure to respond to

discovery requests. She confirmed receipt of notice and knowledge of the hearing date. However, Claimant further failed to respond to discovery requests despite the Referee's oral order informing her that her cooperation was required.

4. Claimant did not respond to telephone contacts from the Commission requesting her to confirm she would attend the scheduled hearing. Claimant did not appear for this hearing.

DISCUSSION AND FURTHER FINDINGS OF FACT

5. A claimant carries the burden of proving her claim. *See, Langley v. State, Industrial Special Indemnity Fund*, 126 Idaho 781, 785, 890 P.2d 732, 736 (1995).

6. Claimant has failed to prosecute her claim. Good cause exists for granting Defendants' motion to dismiss with prejudice. Claimant failed to establish a *prima facie* case and failed to comply with orders of the Commission.

CONCLUSION OF LAW

Claimant's claim should be dismissed with prejudice for failure to prosecute her claim and attend the scheduled hearing.

RECOMMENDATION

The Referee recommends that the Commission adopt the foregoing Findings of Fact and Conclusion of Law as its own and issue an appropriate final order.

DATED This 29TH day of January, 2010.

INDUSTRIAL COMMISSION

/S/ _____
Douglas A. Donohue, Referee

ATTEST:

/S/ _____
Assistant Commission Secretary

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JOAN TRUMBO,)	
)	
)	IC 2007-018572
Claimant,)	
v.)	
)	
BRONCO CLEANING, INC.,)	ORDER
)	
Employer,)	
and)	FILED FEB - 4, 2010
)	
IDAHO STATE INSURANCE FUND,)	
)	
)	
Surety,)	
Defendants.)	
_____)	

Pursuant to Idaho Code § 72-717, Referee Douglas A. Donohue submitted the record in the above-entitled matter, together with his recommended findings of fact and conclusion of law to the members of the Idaho Industrial Commission for their review. Each of the undersigned Commissioners has reviewed the record and the recommendations of the Referee. The Commission concurs with these recommendations. Therefore, the Commission approves, confirms, and adopts the Referee's proposed findings of fact and conclusion of law as its own.

Based upon the foregoing reasons, IT IS HEREBY ORDERED that:

1. Claimant's claim is dismissed with prejudice for failure to prosecute her claim and attend the scheduled hearing.

2. Pursuant to Idaho Code § 72-718, this decision is final and conclusive as to all matters adjudicated.

DATED this 4TH 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 4TH day of FEBRUARY, 2010, a true and correct copy of **FINDINGS, CONCLUSION, AND ORDER** were served by regular United States Mail upon each of the following:

Joan Trumbo
2819 S. Georgia Avenue, #26
Caldwell, ID 83605

Max M. Sheils
P.O. Box 388
Boise, ID 83701-0388

db /S/ _____