

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

STEVE HENDRIX

Claimant,

v.

KODIAK AMERICA, LLC,

Employer,

and

WCF NATIONAL INSURANCE
COMPANY,

Surety,
Defendants.

IC 2020-016090

**ORDER GRANTING CLAIMANT'S
MOTION FOR AWARD OF STATUTORY
INTEREST**

FILED

SEP 22 2023

INDUSTRIAL COMMISSION

On September 1, 2023, Claimant filed a Motion for Award of Statutory Interest and an accompanying affidavit in support of said Motion requesting that the Commission issue an order requiring Defendants to pay Statutory Interest pursuant to Idaho Code § 72-734. Defendants filed a Response to Motion for Award of Statutory Interest on September 11, 2023.

In his Motion, Claimant argues that although the Commission entered its Order for Dismissal in this case pursuant to Idaho Code § 72-404 and the parties' Lump Sum Settlement Agreement on July 14, 2023, Defendants failed to issue payment of settlement funds to Claimant until August 22, 2023. Claimant argues that pursuant to Idaho Code § 72-734, he is entitled to interest stemming from Defendants' delay in issuing payment, i.e. from July 14, 2023 to August 22, 2023 in the amount of \$657.15. In response, Defendants argue that they did not act in bad faith, and that the delay in payment was due to the Surety not receiving a copy of the settlement documents. Once the error was discovered, Surety promptly issued payment. Furthermore, Defendants argue that the statute does not expressly define what constitutes a "delayed" payment

and because the Agreement did not include a due date for the payment of funds the Commission cannot award interest as Claimant requested.

DISCUSSION

Regarding interest, Idaho Code § 72-734 provides:

Whenever a decision shall have been entered by the commission awarding compensation of any kind to a claimant, such award shall accrue and the employer shall become liable for, and shall pay, interest thereon from the date of such decision pursuant to the rates established and existing as of the date of such decision, pursuant to section 28-22-104(2), Idaho Code. Such interest shall accrue on all compensation then due and payable, and on all compensation successively becoming due thereafter, from the respective due dates, regardless of whether an appeal shall be taken from the decision of the commission, until the time of payment thereof.

The Commission has ruled that Idaho Code § 72-734 is applicable to lump sum settlement agreements because such agreements constitute decisions and awards entered by the Commission upon an agreed set of facts presented by the parties. *Norris v. Caldwell Memorial Hospital*, 1986 IIC 0456, 84-483242 (Idaho Ind. Comm. August 6, 1986). A settlement agreement “shall be effective on the date it is filed with the commission and shall for all purposes constitute an adjudication of the claims resolved in the settlement agreement.” Idaho Code § 72-404(5).

Defendants’ argument that they did not act in bad faith in delaying the payment to Claimant is immaterial. The language of the statute is clear. Under Idaho Code § 72-734, interest begins to accrue once a settlement agreement becomes effective. Likewise, Defendants’ argument that the statute is silent on what constitutes a “delayed” payment fails for the same reason. The statute unambiguously directs that interest shall accrue, and that an employer shall become liable for and shall pay said interest, once an award of compensation has been entered.

As we noted in *Norris*, the Commission has “no discretion under Section 72-734 Idaho Code with respect to whether or not an award of interest may be made, because the statute

specifically provides that interest shall accrue from the date of the Commission's decision and award. Therefore, delays which may have been occasioned by mailing the approved award or by mailing the payment check or by administrative delays encountered by the surety do not serve to mitigate the surety's liability under Sec. 72-734." 1986 IIC 0456, 84-483242.

The Commission observes that parties frequently include a stipulation in their settlement agreements that stays the accumulation of statutory interest for a period of time (usually twenty to thirty days) from the date of filing in order to allow time for the sureties to process payment of the award. However, the Settlement Agreement in this case (attached as Exhibit A to Affidavit of Matthew J. Vook in support of Claimant's Motion) contains no such provision. Therefore, pursuant to Idaho Code § 72-734, the statutory interest began to accrue, and Surety became liable for such interest, on the date the Settlement Agreement became effective.

Based on the foregoing reasons, Claimant's motion is GRANTED. Statutory Interest will be awarded as Claimant has requested. Defendants are required to pay interest from July 14, 2023 (the date that the Settlement Agreement became effective) to August 22, 2023 (the date that payment was issued), calculated pursuant to Idaho Code § 28-22-104(2). The statutory interest rate at the time of the Order for Dismissal was 10.250% per annum. The award adjudicated by the Commission was \$60,000; therefore, the daily accumulated interest is \$16.85. Surety is ordered to pay Claimant statutory interest in the amount of \$657.15.¹

IT IS SO ORDERED.


DATED this 22nd day of September, 2023.

¹ July 14, 2023 to August 22, 2023 is thirty-nine (39) days. 39 days at a daily interest rate of \$16.85 = \$657.15.

INDUSTRIAL COMMISSION




Thomas E. Limbaugh, Chairman


Thomas P. Baskin, Commissioner


Aaron White, Commissioner

ATTEST:


Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the ~~27~~²⁸ day of September, 2023, a true and correct copy of the foregoing **ORDER GRANTING CLAIMANT'S MOTION FOR AWARD OF STATUTORY INTEREST** served via **Electronic Mail** upon each of the following:

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