

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

DEAN SYVERSON,
Claimant,

v.

SECURITAS SECURITY SERVICES USA, INC.,
Employer,

and

INDEMNITY INSURANCE COMPANY
OF NORTH AMERICA,
Surety,
Defendants.

IC 2020-024269

**FINDING OF FACT,
CONCLUSION OF LAW,
AND RECOMMENDATION**

FILED

FEB 10 2023

INTRODUCTION

INDUSTRIAL COMMISSION

Pursuant to Idaho Code § 72-506, the Idaho Industrial Commission assigned the above-entitled matter to Referee Brian Harper, who conducted a hearing in Boise, Idaho, on February 1, 2023. Claimant represented himself *pro se* in this litigation. He failed to present himself at hearing despite having written notice of the hearing and additional actual notice by way of a written Notice sent the week before hearing.¹ Nicole O'Toole represented Defendants Securitas Security Services, U.S.A., Inc., and Indemnity Insurance Company of North America. The matter came under advisement on February 1, 2023.

ISSUES

The issues slated for resolution at the hearing were:

¹ On January 11, 2023, the undersigned issued an Order precluding Claimant from presenting evidence and/or exhibits at hearing as a sanction for repeated refusal to submit to an IME and/or participate in his deposition. Also in the Order the parties were informed the undersigned would be sending a recommendation for dismissal to the Commissioners for their consideration. The Commissioners declined the recommendation for dismissal, and this decision of the Commissioners was conveyed to the parties in a Notice dated January 25, 2023, which also informed the parties the hearing would proceed as scheduled on February 1, 2023 with all previous sanctions levied against Claimant to remain in place.

1. Whether Claimant has complied with the notice limitations set forth in Idaho Code §§72-701 through 704, and whether these limitations are tolled pursuant to Idaho Code 72-604;
2. Whether Claimant has complied with the filing requirements of Idaho Code §72-706;
3. Whether Claimant has complied with the notice limitations set forth in Idaho Code §72-448;
4. Whether Claimant suffered an injury from an accident arising out of and in the course of his employment;
5. Whether the condition for which Claimant seeks benefits was caused by the industrial accident;
6. Whether Claimant suffers from a compensable occupational disease;
7. Whether Claimant's condition is due in whole or in part to a preexisting condition;
8. Whether and to what extent Claimant is entitled to the following benefits;
 - a. Medical care
 - b. Temporary partial and/or total disability benefits;
 - c. Disability based on medical factors; and
 - d. Permanent partial disability attributable to all factors;
9. Whether any of the benefits Claimant would normally be entitled to should be reduced pursuant to Idaho Code §72-208, suspended pursuant to Idaho Code §72-434, suspended or reduced pursuant to Idaho Code §72-435, or denied entirely pursuant to Idaho Code §72-441; and

10. Whether Claimant's refusal to obey the Commission's Orders to produce adequate discovery responses and documents rises to contempt and subjects the Claimant to discipline outlined in Idaho Code §72-715.

EVIDENCE CONSIDERED

The record in this matter is devoid of any exhibits, as none were offered by either party. No testimony was taken.²

FINDINGS OF FACT

No findings of fact are set forth, as no testimony was received at hearing. No exhibits were admitted.

CONCLUSION OF LAW

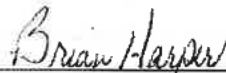
Claimant has failed to make a *prima facie* case for any of the issues in controversy herein.

RECOMMENDATION

Based upon the foregoing Finding of Fact and Conclusion of Law, the Referee recommends that the Commission adopt such finding and conclusion as its own and issue an appropriate final order.

DATED this 2nd day of February, 2023.

INDUSTRIAL COMMISSION



Brian Harper, Referee

² As referenced earlier, Claimant was precluded from presenting testimony and/or offering exhibits as the results of sanctions awarded against him for his repeated and willful failures to comply with discovery requests and Orders from the Commission.

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of February, 2023, a true and correct copy of the foregoing **FINDING OF FACT, CONCLUSION OF LAW, AND RECOMMENDATION** was served by email transmission and regular United States Mail upon each of the following:

DEAN SYVERSON

[REDACTED]

NICOLE O'TOOLE

PO Box 1617

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Jennifer S. Komperud

jsk

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v.

SECURITAS SECURITY SERVICES USA, INC.,
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INDEMNITY INSURANCE COMPANY
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Surety,
Defendants.

IC 2019-024513

ORDER

FILED

FEB 10 2023

INDUSTRIAL COMMISSION

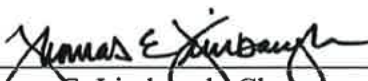
Pursuant to Idaho Code § 72-717, Referee Brian Harper submitted the record in the above-entitled matter, together with his recommended finding of fact and conclusion of law, to the members of the Idaho Industrial Commission for their review. Each of the undersigned Commissioners has reviewed the record and the recommendation of the Referee. The Commission concurs with this recommendation.

Therefore, the Commission approves, confirms, and adopts the Referee's proposed finding of fact and conclusion of law as its own. Based upon the foregoing, IT IS HEREBY ORDERED that:

1. Claimant has failed to make a *prima facie* case for any of the issues in controversy herein.
2. Pursuant to Idaho Code § 72-718, this decision is final and conclusive as to all matters adjudicated.

DATED this the 10th day of February, 2023.

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 10th day of February, 2023, a true and correct copy of the foregoing **ORDER** was served by email transmission and regular United States Mail upon each of the following:

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