

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

JOSE ESCOBEDO,

Claimant,

v.

HIDDEN VALLEY DAIRY, LLC,

Employer,

and

IDAHO STATE INSURANCE FUND,

Surety,

Defendants.

IC 2022-003635

**ORDER GRANTING
RECONSIDERATION AND VACATING
DISMISSAL**

**FILED JANUARY 28, 2025
IDAHO INDUSTRIAL
COMMISSION**

Introduction

On September 30, 2024, the Industrial Commission filed an Order to Show Cause why an Order of Dismissal should not be issued for Claimant's failure to prosecute his claim. The Commission notified Claimant that he was expected to respond within twenty-one (21) days with a written response outlining the efforts he was or intended to make in the immediate future to move the case forward toward resolution, or other good cause as to why the case ought not be dismissed. On December 17, 2024, the Commission issued an order dismissing Claimant's complaint, which was premised on Claimant's failure to respond to Defendants' Motion to Dismiss. On January 7, 2025, the 21st day after the order was issued, Claimant represented in person to Commission staff and made a verbal request for reconsideration, the grounds for which were contained in a handwritten statement that was translated by Commission Staff and mailed to the Defense on January 8, 2025. Claimant now respectfully requests that the matter be retained on the active

docket. The Commission construes Claimant's response as a request for reconsideration. The Defense has not responded.

A decision of the Commission, in the absence of fraud, shall be final and conclusive as to all matters adjudicated, provided that within 20 days from the date of the filing of the decision, any party may move for reconsideration. Idaho Code § 72-718. However, “[i]t is axiomatic that a claimant must present to the Commission new reasons factually and legally to support a hearing on her Motion for Rehearing/Reconsideration rather than rehashing evidence previously presented.” *Curtis v. M.H. King Co.*, 142 Idaho 383, 388, 128 P.3d 920 (2005).

On reconsideration, the Commission will examine the evidence in the case and determine whether the evidence presented supports the legal conclusions. The Commission is not compelled to make findings on the facts of the case during reconsideration. *Davidson v. H.H. Keim Co., Ltd.*, 110 Idaho 758, 718 P.2d 1196 (1986). The Commission may reverse its decision upon a motion for reconsideration, or rehear 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 reconsideration 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 simply because the case was not resolved in a party's favor.

Upon review, it appears the Commission's order to show cause erroneously required claimant to show efforts he was making or “other good cause as to why the case should not be dismissed.” Under *Fuentes v. Cavco Indus., Inc.*, 170 Idaho 432, 511 P.3d 852 (2022), it is error

to require a claimant to show “good cause” why a JRP 12(B) order of dismissal should not be issued. The Commission finds that the order to show cause applied an incorrect standard of law and failed to correctly notify Claimant of the issues he was required to respond to.

The Commission also finds that the Commission’s Order Dismissing Complaint was based on the factual assumption that Claimant failed to respond to Defendant’s motion to dismiss. However, Claimant has now presented that he did mail a response to the Defense’ Motion to Dismiss *only* to the Defense attorney, Paul Augustine; he mistakenly failed to mail his response to the Commission. In support of the contention, he presents a U.S. Postal Service mail receipt dated October 18, 2025, the day he says he mailed the response to Defense.

The Commission and the Defense are aware of Claimant’s language barrier. The Commission is also cognizant of Claimant’s prior efforts to pursue his claim by being responsive over the years, keeping his contact information up-to-date, participating in conference, attending mediation, and requesting retention after inactivity multiple times after Defendants moved for dismissal twice prior.

The Commission is persuaded that Claimant made a good faith effort to respond to the Motion to Dismiss, and Defendants have not objected to Claimant’s response. The Commission’s Order to Show Cause also failed to provide notice of the correct legal standard articulated by *Fuentes v. Cavco Indus., Inc.*, 170 Idaho 432, 511 P.3d 852 (2022). In addition, Claimant’s stated reason for retaining the case on the active docket —the need for medical care—is legitimate.

Under Idaho Code § 72-719, “The commission, on its own motion at any time within five (5) years of the date of the accident causing the injury or date of first manifestation of an occupational disease, may review a case in order to correct a manifest injustice.” On the Commission’s own motion and in accordance with Idaho Code § 72-719, **IT IS HEREBY**

ORDERED that Claimant's request for reconsideration is **GRANTED**, and the Commission's order dismissing Claimant's complaint, filed on December 17, 2024, is hereby **VACATED**. **IT IS SO ORDERED.**

DATED this 27th day of January, 2025.

INDUSTRIAL COMMISSION



Claire Sharp
Claire Sharp, Chair

[Signature]
Aaron White, Commissioner

[Signature]
Thomas E. Linsbaugh, Commissioner

ATTEST:

Kamerron Slay
Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of January, 2025, a true and correct copy of the foregoing **ORDER GRANTING RECONSIDERATION AND VACATING DISMISSAL** was served upon each of the following by the method(s) indicated below:

By regular United States Mail:
JOSE H. ESCOBEDO

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██████████

By email transmission:
PAUL AUGUSTINE
pja@augustinelaw.com

Mary McMenomey

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