

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

GERARDO RUIZ SOTO,

Claimant,

v.

HIGHLAND HAY, INC,

Uninsured Employer,

Defendant.

IC 2020-003472

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND RECOMMENDATION**

Filed
March 13, 2026
Idaho Industrial
Commission

INTRODUCTION

Pursuant to Idaho Code § 72-506, the Idaho Industrial Commission assigned the above-entitled matter to Referee Brian Harper, who presided over a default hearing by affidavit. The supporting affidavits and exhibits were filed with the Industrial Commission on February 2, 2026. Andrew Adams represented Claimant. As alluded to above, Defendant was defaulted previously and presented no evidence. The Claimant produced affidavit and documentary evidence for the Commission's consideration. The matter came under advisement on February 3, 2026.

ISSUES

The issues for a *prima facie* case include notice, filing of complaint within the requisite time to do so, employee/employer status, an accident, causation, and injury.

Additionally, Claimant seeks the following benefits;

1. Whether and to what extent Claimant is entitled to the following benefits:
 - a. Medical care;
 - b. Temporary total and/or partial disability benefits (TTD/TPD);

c. Disability based on medical factors (PPI), and;

2. Whether Defendant is liable to Claimant for attorney fees and penalties set forth in Idaho Code § 72-210 for failing to insure liability.

PROCEDURAL BACKGROUND

Claimant filed a complaint in this matter on December 14, 2020. Defendant did not respond to the complaint. On June 24, 2021, Claimant filed a Notice of Intent to Take Default and Proof of Service. There was no response from Defendant. On November 1, 2021, an Order Entering Default was filed.

The case sat dormant until February 2, 2026, when Claimant filed an affidavit on his behalf and his attorney also briefing in support of Claimant's *prima facie* case. Exhibits were likewise filed that day. The matter is ripe for adjudication.

CLAIMANT'S CONTENTIONS

Claimant asserts he was injured when he slipped and fell while within the course and scope of his employment with Employer on December 17, 2019. He fractured ribs on his left side when he fell. He incurred medical expenses and lost time from work. He seeks reimbursement for his medical bills, and temporary disability benefits for the time he lost from work. He also seeks benefits for personal impairment (PPI), and Idaho Code § 72-210 penalties and attorney fees.

EVIDENCE CONSIDERED

The record in this matter consists of the following:

1. The affidavit of Claimant, and briefing from Andrew Adams,¹ filed on February 2, 2026;
2. Claimant's exhibit (CE) 1, consisting of 65 pages of documents; and

¹ Mr. Adams' brief was labelled as an affidavit, but it was not sworn to, nor notarized. It was simply a brief.

3. The IIC legal file on this matter.

RULE 6 DEFAULT REQUIREMENTS

JRP 6C deals with a claimant's responsibilities to obtain an award of judgment in a default proceeding. The rule requires a claimant to establish a *prima facie* case sufficient to support an award of those benefits sought. This can be done by hearing, submission of written evidence, affidavits, and medical records, or any such combination. It is up to the Commission to determine whether Claimant has made a *prima facie* showing of all elements of his claim.

Given these requirements, it is appropriate to provide those facts which establish a *prima facie* case for each of the issues in play in this proceeding. Facts which are not necessary to establish such showing may be omitted even if they would present a more complete narration of relevant events. Greater discussion will be given those elements of Claimant's claims for benefits which require an in-depth analysis for determining the extent of the benefits available to Claimant under these facts.

FINDINGS OF FACT, DISCUSSION, AND ANALYSIS

1. Claimant was working for Defendant on December 17, 2019, as a tractor operator. He was 61 years old on that date.

2. The accident occurred when Claimant slipped on ice and fell onto hard snow. The fall produced pain in Claimant's left torso.

3. Claimant's discomfort increased overnight and the next day while working. Finally, on December 19, 2019, his employer sent him to Rexburg Community Care for medical treatment. X-rays taken that day revealed a broken 11th rib on Claimant's left side. He was given work restrictions of no lifting, pushing or pulling for the next week. At a follow-up visit it was discovered he actually had two or possibly three anterolateral rib fractures.

4. Employer would not accommodate Claimant's work restrictions and fired him in January of 2020.

5. At his February 18, 2020 office visit, Claimant was released to full activity after x-rays showed proper healing.

6. During the course of his treatment Claimant incurred \$1165.42 in medical charges.

DISCUSSION AND FURTHER FINDINGS

7. Before Claimant can obtain the benefits he is seeking herein, namely, medical, time loss, and permanent impairment, foundational elements of the claim must be proven. Those elements include timely notice, timely filing of his complaint, an employee/employer status, an injury-producing accident, and causation.

Timely Notice and Filing

8. Idaho Code § 72-701 provides, in pertinent part:

No proceedings under this law shall be maintained unless a notice of the accident shall have been given to the employer as soon as practicable but not later than sixty (60) days after the happening thereof, and unless a claim for compensation with respect thereto shall have been made within one (1) year after the date of the accident....

Idaho Code § 72-702 requires that the notice must be in writing. However, notice required under Idaho Code § 72-701 is sufficient, even if the formal requirements are not met, so long as "...the employer, his agent or representative had knowledge of the injury...."

Idaho Code § 72-704. Notice is sufficient if it apprises the employer of the accident arising out of and in the course of employment causing the injury. *Murray-Donahue v. National Car Rental Licensee Association*, 127 Idaho 337, 339, 900 P.2d 1348, 1350 (1995).

(Employer witnessing accident provides the requisite knowledge of the accident; in such case no formal notice is required.)

9. Claimant's exhibit 1, page 1, is a First Report of Injury which was prepared on January 30, 2020. This document supports a finding that Claimant gave timely notice of his injury.

10. Claimant filed his complaint on December 14, 2020, which supports a finding of timely filing.

11. Claimant has made a requisite *prima facie* showing that he gave timely notice of his injury and filed his claim for compensation (complaint) within the time frames set out in Idaho Code § 72-701.

Employee Status

12. Idaho Code § 72-102(11) defines an employee as “any person who has entered into the employment of, or who works under contract of service or apprenticeship with, an employer.”

13. The First Report of Injury acknowledges Claimant was an employee, working full time as a tractor operator, earning \$14.50 per hour. Claimant filed a sworn affidavit in which he asserts he was an employee of Highland Hay, Inc. at the time of his accident. That fact was not called into question at any time during the pendency of this matter.

14. The evidence supports a finding that Claimant was an employee of Employer at the time of his accident.

15. Claimant has made a requisite *prima facie* showing that he was an employee of Defendant as defined in Idaho Code § 72-102(11).

Accident and Injury

16. Idaho Code § 72-102(17)(b) defines accident as “an unexpected, undesigned, and unlooked for mishap, or untoward event, connected with the industry in which it occurs,

and which can be reasonably located as to time when and place where it occurred, causing an injury.” Idaho Code § 72-102(17)(c) defines injury as an injury caused by an accident, which results in violence to the physical structure of the body.

17. The record makes clear Claimant slipped and fell, resulting in several broken ribs while on Employer’s premises on December 17, 2019. His fall was an unexpected and untoward event. It resulted in physical damage to the structures of his body.

18. Claimant has made a requisite *prima facie* showing that he suffered an injury-producing accident on December 17, 2019, when he fell and broke his ribs.

Causation

19. For an injury to be compensable under the Worker's Compensation Act (the Act), it must have been caused by an accident both *arising out of* and *in the course of* any employment covered by the Act. Idaho Code § 72-102(18)(a) (emphasis added). Causation is an issue whenever entitlement to benefits is at question. *Gomez v. Dura Mark, Inc.*, 152 Idaho 597, 601, 272 P.3d 569, 573 (2012).

20. As a general rule, Idaho law presumes workers on the employer’s premises are acting within the course and scope of their employment, so long as there is a causal connection between conditions existing on premises and the accident. *Foust v. Birds Eye Division of General Foods Corp.*, 91 Idaho 418, 419, 422 P.2d 616, 617 (1967). However, in order to be compensable, the injury has to be in some way connected with, or traceable to, the employee’s work. *See, e.g. In Re Malmquist*, 78 Idaho 117, 300 P.2d 820 (1956).

21. Here, Claimant was on Employer’s property, walking toward his truck, which was located in Employer’s parking lot, at the end of his shift. Claimant fell on ice prior to reaching his vehicle and broke multiple ribs. But for the fact Claimant had been working at the site

where he fell, he would have had no reason to be there at that time. His fall, on Employer's property, was connected with and traceable to, his work for Employer.

22. Claimant has made a requisite *prima facie* showing that his rib injury arose out of and in the course of his employment with Defendant.

Facts and Analysis Relevant to Claims for Benefits

23. Claimant seeks benefits for medical care, time lost from work, and permanent impairment. Claimant also requests those fees and costs mandated in Idaho Code § 72-210 for Defendant's failure to insure liability. Each benefit will be addressed in turn below.

Medical Benefits

24. Idaho Code § 72-432(1) mandates that an employer shall provide for an injured employee such reasonable medical treatment as may be reasonably required by the employee's physician or needed immediately after an injury, and for a reasonable time thereafter. If the employer fails to provide the same, the injured employee may do so at the expense of the employer. However, to obtain medical benefits, Claimant must provide medical testimony of causation to a reasonable degree of medical probability. *Langley v. State, Industrial Special Indemnity Fund*, 126 Idaho 781, 785, 890 P.2d 732, 736 (1995). Magic words are not necessary to show a doctor's opinion is held to a reasonable degree of medical probability; only their plain and unequivocal testimony conveying a conviction that events are causally related. *Jensen v. City of Pocatello*, 135 Idaho 406, 412-13, 18 P.3d 211, 217-18 (2001).

25. The medical records establish that Claimant's treatment was causally related to his undisputed industrial accident. Although none of the records specifically state the phrase "to a reasonable degree of medical probability," a review of the records as a whole clearly establish that Claimant's treatment was wholly and directly related to a traumatic

rib injury. The First Report of Injury, coupled with Claimant's unrebutted and undisputed claims in his complaint, and the medical records submitted as an exhibit, establish the mechanism of injury and the fact that it occurred in the course of and arising out of Claimant's employment with Employer. There is no allegation or evidence of any alternate, or intervening, causes of Claimant's injury.

26. The exhibit produced by Claimant contains medical records sufficient to establish the fact that Claimant incurred medical expenses in the sum of \$1,165.42 for treatment of his broken ribs.

27. Claimant has made a requisite *prima facie* showing that he is entitled to medical benefits in the sum of \$1,165.42 resulting from his industrial accident in question.

Temporary Disability Benefits

28. Idaho Code § 72-102 (10) defines "disability," for the purpose of determining total or partial temporary disability income benefits, as a decrease in wage-earning capacity due to injury or occupational disease, as such capacity is affected by the medical factor of physical impairment, and by pertinent nonmedical factors as provided for in Idaho Code § 72-430. Idaho Code § 72-408 further provides that income benefits for total and partial disability shall be paid to disabled employees "during the period of recovery." The burden is on a claimant to present medical evidence of the extent and duration of the disability in order to recover income benefits for such disability. *Sykes v. C.P. Clare and Company*, 100 Idaho 761, 605 P.2d 939 (1980).

29. Claimant was injured on December 17, 2019. He was given light duty work restrictions and returned to work after his December 19, 2019 medical visit. Claimant continued working for his time-of-injury employer, although he was required to perform work duties above his medical restrictions. After Claimant provided Employer with his physician-imposed

restrictions, he was fired. The date of his termination is not in the record, but on his doctor's appointment on January 21, 2020, Claimant indicated he had been fired.

30. Claimant was released to full activity on February 18, 2020.

31. Claimant was unable to work from at least January 20, 2020, through February 17, 2020. He has not proven a greater time frame for the purpose of establishing the amount of his total temporary benefit claim. The First Report of Injury established that Claimant worked six days a week on 12 hour shifts, at an hourly rate of \$14.50.

32. Claimant's temporary total disability benefits for the 30 days he proved he was temporarily totally disabled, (from January 20 through February 18, 2020), would be calculated as follows: $\$14.5 \times 12 \text{ hours} \times 6 \text{ days per week} = \1044 AWW . Reimbursement rate is .67 of AWW. $.67 \times 1044 = \$699.48$, which is divided by 7 to give a daily wage of $\$99.92 \times 30 \text{ days} = \2997.77 .

33. Claimant has made a requisite *prima facie* showing that he is entitled to total temporary disability benefits in the sum of \$2,997.77 resulting from his industrial accident in question.

Disability Based on Medical Factors or Permanent Partial Impairment (PPI)

34. Permanent impairment is any anatomic or functional abnormality or loss after maximal medical rehabilitation has been achieved and a claimant's position is considered medically stable. *Henderson v. McCain Foods*, 142 Idaho 559, 567, 130 P.3d 1097, 1105 (2006). Idaho Code § 72-424 provides that the evaluation of permanent impairment is a medical appraisal of the nature and extent of the injury or disease as it affects an injured employee's personal efficiency in the activities of daily living, such as self-care, communication, normal living

postures, ambulation, elevation, traveling, and other activities. The Commission is the ultimate evaluator of impairment. *Urry v. Walker & Fox Masonry*, 115 Idaho 750, 769 P.2d 1122 (1989).

35. Claimant did not obtain a formal PPI rating from a physician. Instead, he notes the Commission is the ultimate fact finder on impairment and requests the Commission determine the rating. However, there is no finding or notation from any physician that Claimant had suffered a permanent disability resulting from his now healed broken ribs. Claimant did not produce evidence of how, if at all, his mended broken ribs affect his activities of daily living on a permanent basis. It is not self-evident that broken ribs, once healed, cause impairment, and the Claimant, released from a doctor's care without any restrictions, did nothing to support his claim.

36. Claimant has failed to make a requisite *prima facie* showing of an entitlement to benefits for permanent partial impairment.

Idaho Code § 72-210

37. Idaho Code § 72-210 provides for penalties if an employer fails to secure payment of compensation as required by the Act. In such case an injured employee shall be awarded, in addition to compensation under the Act, an amount equal to ten per cent (10%) of the total amount of his compensation, together with costs, if any, and reasonable attorney's fees if he has retained counsel.

38. Claimant retained counsel to represent him in these proceedings. The IIC file supports the proposition that Defendant was uninsured.

39. IDAPA 17.01.01.802 presumes 30% of available funds is a reasonable fee when the matter proceeds to hearing (in this case by affidavit and exhibits) and briefing submitted, such as in the present case. A fee of 30% of the recovery is deemed reasonable in this case,

given the efforts put forth by counsel. No cost bill was submitted and therefore no costs over attorney fees are awarded herein.

40. Claimant is entitled to a 10% penalty on all compensation allowed herein, as well as attorney fees under Idaho Code § 72-210 in amounts as shown below.

41. The record herein establishes workers' compensation benefits due to Claimant, together with the 10% penalty, and attorney fees and costs owing pursuant to Idaho Code § 72-210 as calculated:

| | |
|---|--------------------------|
| Amounts owing under Idaho Code § 72-432: | |
| Past Medical expenses | \$ 1,165.42 |
| Amount owing for Temporary Disability | \$ 2,997.77 |
| Amount owing for Permanent Impairment | \$ 0 |
| Total Gross Recovery for calculating penalty and fees | <u>\$4,163.19</u> |
| Amounts owing pursuant to Idaho Code § 72-210: | |
| 10% penalty (.10 x \$4,163.19) | \$ 416.32 |
| Attorney fees (.3 x \$4,579.51) | <u>\$1,373.85</u> |
| Total | <u>\$5,953.36</u> |

CONCLUSIONS OF LAW

1. Claimant has made a requisite *prima facie* showing that he gave timely notice of his injury and filed his claim for compensation (complaint) within the time frames set out in Idaho Code § 72-701.

2. Claimant has made a requisite *prima facie* showing that he was an employee of Defendant as defined in Idaho Code § 72-102(11).

3. Claimant has made a requisite *prima facie* showing that he suffered an injury-producing accident on December 17, 2019, when he fell and broke his ribs.

4. Claimant has made a requisite *prima facie* showing that his rib injury arose out of and in the course of his employment with Defendant.

5. Claimant has made a requisite *prima facie* showing that he is entitled to medical benefits in the sum of \$1,165.42 resulting from his industrial accident in question.

6. Claimant has made a requisite *prima facie* showing that he is entitled to total temporary disability benefits in the sum of \$2,997.77 resulting from his industrial accident in question.

7. Claimant has failed to make a requisite *prima facie* showing of an entitlement to benefits for permanent partial impairment.

8. Pursuant to Idaho Code § 72-210 Claimant is entitled to attorney fees in the sum of \$1,373.85, and a 10% penalty on all compensation allowed herein in the sum of \$416.85.

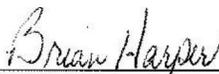
9. The sum of workers' compensation benefits, attorney fees, and penalties presently due and owing to Claimant from Defendant is \$5,953.36.

RECOMMENDATION

Based upon the foregoing Findings of Fact and Conclusions of Law, the Referee recommends that the Commission adopt such findings and conclusions as its own and issue an appropriate final order.

DATED this 18th day of February, 2026.

INDUSTRIAL COMMISSION



Brian Harper, Referee

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of March, 2026, a true and correct copy of the foregoing **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDATION** was served by email transmission AND regular United States Mail upon each of the following:

ANDREW ADAMS
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jsk

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

GERARDO RUIZ SOTO,

Claimant,

v.

HIGHLAND HAY, INC,

Uninsured Employer,

Defendant.

IC 2020-003472

ORDER

Filed
March 13, 2026
Idaho Industrial
Commission

Pursuant to Idaho Code § 72-717, Referee Brian Harper submitted the record in the above-entitled matter, together with his recommended findings of fact and conclusions 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 findings of fact and conclusions of law as its own. Based upon the foregoing,

IT IS HEREBY ORDERED that:

1. Claimant has made a requisite *prima facie* showing that he gave timely notice of his injury and filed his claim for compensation (complaint) within the time frames set out in Idaho Code § 72-701.
2. Claimant has made a requisite *prima facie* showing that he was an employee of Defendant as defined in Idaho Code § 72-102(11).
3. Claimant has made a requisite *prima facie* showing that he suffered an injury-producing accident on December 17, 2019, when he fell and broke his ribs.

4. Claimant has made a requisite *prima facie* showing that his rib injury arose out of and in the course of his employment with Defendant.

5. Claimant has made a requisite *prima facie* showing that he is entitled to medical benefits in the sum of \$1,165.42 resulting from his industrial accident in question.

6. Claimant has made a requisite *prima facie* showing that he is entitled to total temporary disability benefits in the sum of \$2,997.77 resulting from his industrial accident in question.

7. Claimant has failed to make a requisite *prima facie* showing of an entitlement to benefits for permanent partial impairment.

8. Pursuant to Idaho Code § 72-210 Claimant is entitled to attorney fees in the sum of \$1,373.85, and a 10% penalty on all compensation allowed herein in the sum of \$416.85.

9. The sum of workers' compensation benefits, attorney fees, and penalties presently due and owing to Claimant from Defendant is \$5,953.36.

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

IT IS SO ORDERED.

DATED this the 13th day of March, 2026.



INDUSTRIAL COMMISSION

Claire Sharp

Claire Sharp, Chair

Aaron White

Aaron White, Commissioner

ATTEST:

Mary McMenomey

Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of March, 2026, 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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