

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

CANDICE COLQUHOUN,

Claimant,

v.

ERNEST HEALTH INC.,

Employer,

and

EMPLOYERS INSURANCE CO. OF
WAUSAU,

Surety,

Defendants.

IC 2018-010128

ORDER ON RECONSIDERATION

Filed June 19, 2019

On April 1, 2018, Claimant allegedly suffered three work-related injuries to her left foot. Defendants denied the claim on May 4, 2018, and on August 22, 2018, Claimant filed her Complaint in this matter *pro se*. Defendants served interrogatories and requests for documents on Claimant on September, 12, 2018, again on November 6, 2018, and again via email on December 3, 2018. On January 11, 2019, Defendants filed a motion to compel answers to interrogatories and requests for production of documents, which was granted by the Commission on January 29, 2019. On March 25, 2019, Defendants filed a motion to dismiss without prejudice. The Commission dismissed the Complaint without prejudice on April 19, 2019.

On May 8, 2019, Claimant filed¹ her Motion for Reconsideration of the Commission's April 19, 2019 Order dismissing Claimant's Complaint. In support of her motion, Claimant argues that, in fact, she did respond to Defendant's discovery requests in December and does not know why Defendant's counsel has not received them. Claimant asserts she has been seeking legal counsel throughout this matter. Claimant requests her Complaint be reinstated and that she be given more time to find legal counsel to represent her.

On May 29, 2019, Defendants filed their response objecting to Claimant's motion. Defendants state they never received any discovery from Claimant and had not heard anything from Claimant until they were served with Claimant's motion on May 13, 2019. Further, Claimant's claim is now barred by the applicable statute of limitations as this was a denied claim. Defendants object to reinstatement of the Complaint.

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

¹ Claimant faxed her motion for reconsideration to the Commission and did not serve Defendants. The Commission served Defendants with her motion on May 13, 2019.

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.

The provisions of the Idaho Workers' Compensation Law are to be liberally construed in favor of the employee. *Haldiman v. American Fine Foods*, 117 Idaho 955, 956, 793 P.2d 187, 188 (1990). The humane purposes which it serves leave no room for narrow, technical construction. *Ogden v. Thompson*, 128 Idaho 87, 88, 910 P.2d 759, 760 (1996).

Claimant is unrepresented. She timely filed her Motion for Reconsideration with the Commission to reinstate her Complaint; she avers she has been, and is still, seeking counsel to represent her "to be sure that all information is submitted to the correct parties and on time." Claimant has been actively pursuing her case and has shown good cause for reinstatement of the Complaint.

The Commission finds it necessary to vacate its April 19, 2019 order dismissing Claimant's Complaint. Based on the foregoing, **IT IS HEREBY ORDERED** that Claimant's request for reconsideration is GRANTED. The Complaint is hereby **ORDERED** reinstated.

DATED this __19th__ day of ____June____2019.

INDUSTRIAL COMMISSION

_____/s/_____
Thomas P. Baskin, Chairman

_____/s/_____
Aaron White, Commissioner

_____/s/_____
Thomas E. Limbaugh, Commissioner

ATTEST:

_____/s/_____
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on this ___19th___ day of ___June___2019, a true and correct copy of the foregoing **ORDER ON RECONSIDERATION** was served by regular United States Mail upon each of the following:

CANDICE COLQUHOUR
2903 N 4TH ST
COEUR D ALENE, ID 83815

JUDITH ATKINSON
PO BOX 6358
BOISE, ID 83707

SNR

_____/s/_____