

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

FRANCISCO G. RODRIGUEZ,

Claimant,

v.

AMY'S KITCHEN, INC.,

Employer,

and

TRAVELERS PROPERTY CASUALTY
COMPANY OF AMERICA,

Surety,

Defendants.

IC 2017-052634

**ORDER GRANTING
RECONSIDERATION**

Filed October 22, 2019

On October 10, 2019, Claimant timely filed his Motion for Reconsideration regarding the Industrial Commission's Order on Stipulation and Agreement Release and Lump Sum Settlement, and Order of Approval and Discharge, filed October 2, 2019 (the "Lump Sum"), in the above referenced case. The Defendants, Amy's Kitchen and Travelers Property Casualty Company of America, filed a Notice of Non-Opposition to Claimant's Motion for Reconsideration on October 10, 2019.

Under Idaho Code § 72-718, a decision of the commission, in the absence of fraud, shall be final and conclusive as to all matters adjudicated; provided, within twenty (20) days from the date of filing the decision any party may move for reconsideration or rehearing of the decision. . . and in any such events the decision shall be final upon denial of a motion for rehearing or reconsideration of the filing of the decision on rehearing or reconsideration. A motion to reconsider "shall be supported by a brief filed with the motion." J.R.P. 3(f).

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 a reconsideration. *Davison v. H.H. Keim Co., Ltd.*, 110 Idaho 758, 718 P.2d 1196. The Commission may reverse its decision upon a motion for reconsideration or rehearing of 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.

The Commission has reviewed the record, and approves Claimant's requested amendment to the Lump Sum. Based on the foregoing, IT IS HEREBY ORDERED that Claimant's Motion for Reconsideration is GRANTED. Page 3, paragraph 3 of the Lump Sum is amended to, "Claimant and his wife have since relocated to the State of Colorado." IT IS SO ORDERED.

DATED this 22nd day of October, 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 ___22nd___ day of October, 2019, a true and correct copy of the foregoing ORDER GRANTING RECONSIDERATION was served by regular United States Mail upon each of the following:

Andrew Adams
Curtis & Porter, PA
598 N. Capital Ave.
Idaho Falls, ID 83402

W. Scott Wigle
Bowen & Bailey, LLP
P.O. Box 1007
Boise, ID 83701-1007

ERJ

_____/s/_____
