

**BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO**

SANDI MCCRACKEN,

Claimant,

v.

AARON M. LOWE, d/b/a  
TRIANGLE RESTAURANT

Employer,

and

IDAHO STATE INSURANCE FUND,

Surety,  
Defendants.

**IC 2015-003250**

**ORDER GRANTING  
MOTION FOR  
RECONSIDERATION**

**Filed 11/9/18**

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This matter is before the Idaho Industrial Commission (“the Commission”) upon Claimant’s October 9, 2018 filing of correspondence construed as a motion for reconsideration of the Commission’s Order dismissing her complaint without prejudice on October 2, 2018. Defendants did not file a response.

Under Judicial Rule of Practice and Procedure 12(B), the Commission may dismiss a complaint without prejudice if no action has been taken on the case for a period of 6 months. Prior to dismissal, the Commission shall give written notice to the parties of the Commission’s intent to dismiss the complaint. Any party may, within 21 days of the date of service of the Commission’s notice, show cause in writing why the Commission should not dismiss 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. 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)). Process and procedure under this law shall be as summary and simple as reasonably may be and as far as possible in accordance with the rules of equity. Idaho Code § 72-708.

Claimant is not represented by counsel in this matter. The Commission filed the Notice of Intent to Recommend Dismissal on August 17, 2018 and issued its Order Dismissing Complaint on October 2, 2018. Claimant was provided more than 21 days to respond prior to the dismissal of her complaint. Her correspondence to the Commission states that she “was unable to get this back in time due to being out of town and did not know it had come in the mail.” She also states that she is still seeking treatment despite her claim being denied by Surety. We see no reason to question these averments and therefore find good cause to grant reconsideration and withdraw the Order Dismissing Complaint.

Based on the foregoing reasons, the Claimant’s motion for reconsideration is GRANTED. Claimant’s Complaint is REINSTATED. **IT IS SO ORDERED.**

DATED this \_\_9<sup>th</sup>\_\_ day of \_\_November\_\_ 2018.

INDUSTRIAL COMMISSION

\_\_\_\_\_/s/\_\_\_\_\_  
Thomas E. Limbaugh, Chairman

\_\_\_\_\_/s/\_\_\_\_\_  
Thomas P. Baskin, Commissioner

\_\_\_\_\_/s/\_\_\_\_\_  
Aaron White, Commissioner

ATTEST:

\_\_\_\_\_/s/\_\_\_\_\_  
Assistant Commission Secretary

**CERTIFICATE OF SERVICE**

I hereby certify that on the \_\_9<sup>th</sup>\_\_ day of \_\_November\_\_\_\_, 2018, a true and correct copy of the foregoing **ORDER GRANTING MOTION FOR RECONSIDERATION** was served by regular United States Mail upon each of the following persons:

SANDI MCCRACKEN  
3341 LUCKLE LN W  
GRAND FORKS ND 58201

STEPHANIE BUTLER  
IDAHO STATE INSURANCE FUND  
*c/o STATEHOUSE MAIL*  
PO BOX 83720  
BOISE ID 83720-0044

el

\_\_\_\_\_/s/\_\_\_\_\_