

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

ROBERT CORBELL,

Claimant,

v.

MICRON TECHNOLOGY,

Employer,

and

SENTRY INSURANCE, A MUTUAL
COMPANY,

Surety,

Defendants.

IC 2013-013574

ORDER DENYING RECONSIDERATION

Filed December 9, 2019

On October 18, 2019, Claimant filed his Motion for Reconsideration of the Commission's September 27, 2019 Order dismissing Claimant's Complaint. In support of his motion, Claimant avers that he did not receive the Notice of Intent to Recommend Dismissal or Order dismissing the Complaint until October 15, 2019. Claimant's counsel explained that he had changed his address in early 2019 and filed a change of address with the Post Office. However, Claimant's counsel received a call from the occupants of his old office on October 5 regarding mail addressed to him. Claimant picked up this mail, including the Notice and Order, on October 15, 2019. Claimant further avers that the Complaint should not be dismissed because he and Defense Counsel have been diligently working on the case, most recently on September 24, 2019, and attached exhibits substantiating the same. Defense Counsel did not file a response to Claimant's Motion for Reconsideration.

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)), emphasis supplied. 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.

Unfortunately, Claimant’s Motion for Reconsideration is untimely. Claimant had until October 16, 2019 to timely file his Motion within the 20 days provided for by Idaho Code § 72-718. Claimant’s Motion was not made until October 18, 2019. While the Commission is empowered to reconsider a decision on its own motion, the Commission, too, is bound by the

20 day time frame contained in Idaho Code § 72-718. See Dennis v. School District No. 91, supra.

The Commission mailed the Notice of Intent to Dismiss and Order dismissing the Complaint to the address the Commission had for Claimant's Counsel, and it is Claimant's Counsel's responsibility to update the Industrial Commission with the most up-to-date address. See Douglas v. Hoff Companies, IIC 2018-007901 Order on Reconsideration, filed April 8, 2019.

Therefore, Claimant's Motion for Reconsideration is **DENIED. IT IS SO ORDERED.**

DATED this __9th__ day of __December__ 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 9th day of December 2019, a true and correct copy of the foregoing **ORDER DENYING RECONSIDERATION** was served by regular United States Mail upon each of the following:

JEFFREY TOWNSEND
1910 N LAKES PL
MERIDIAN, ID 83646

ALAN GARDNER
1410 W WASHINGTON
BOISE, ID 83702

SNR

_____/s/_____
