

8-27-2010

Current v. Haddons Fencing, Inc. Agency's Record Dckt. 37740

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LAW CLERK

Vol. 13

BEFORE THE SUPREME COURT OF THE STATE OF IDAHO

DENNIS B. CURRENT,)
Claimant,)
)
vs.)
)
HADDONS FENCING INC.,)
)
and)
)
ADVANTAGE EMPLOYMENT)
SOLUTIONS,)
Employers,)
)
and)
)
IDAHO DEPARTMENT OF LABOR.)

SUPREME COURT # 37740

AGENCY'S RECORD

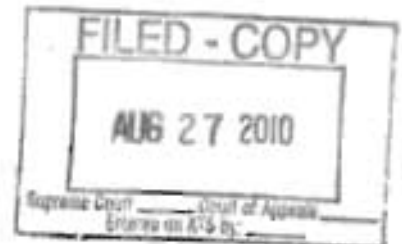
BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

For Claimant/Appellant

William D Faler
520 D Street
Idaho Falls, ID 83402

For Respondent

Tracey K Rolfsen
Deputy Attorney General
Idaho Department of Labor
317 W. Main St.
Boise, Idaho 83735



37740

COPY

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COPY

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LIST OF EXHIBITS

Hearing Transcript taken on November 16, 2009, will be lodged with the Supreme Court:

Exhibits admitted into record before Idaho Department of Labor

1. Notice of Telephone Hearing Revised, mailed November 30, 2009 3 pages
2. Notice of Telephone Hearing, mailed October 27, 2009 3 pages
3. Important Information about your Hearing Read Carefully 2 pages
4. Claim Summary 5 pages
5. Employer Advantage Employer Solutions Response 3 pages
6. Quit – Claimant Statement 2 pages
7. Quit – Employer’s Response 3 pages
8. Unemployment Insurance Interview 2 page
9. IVRU Reports 1 page
10. Eligibility Determination Advantage Employment Solutions 3 pages
11. Eligibility Determination Haddons Fence 3 pages
12. Request for Appeals Hearing 2 pages
13. Request for Appeals Hearing 22 pages
14. Benefit Payment History 1 page

IDAHO DEPARTMENT OF LABOR
APPEALS BUREAU
317 WEST MAIN STREET
BOISE, IDAHO 83735-0720
(208) 332-3572 / (800) 621-4938
FAX: (208) 334-6440

DENNIS B. CURRENT,)
SSN: [REDACTED])
Claimant)
vs.)
HADDONS FENCING, INC.,)
and)
ADVANTAGE EMPLOYMENT)
SOLUTIONS,)
Employers)
and)
IDAHO DEPARTMENT OF LABOR.)

DOCKET NUMBER 0132-2010
DECISION OF APPEALS EXAMINER

FILED
DEC - 1 2009
INDUSTRIAL COMMISSION

DECISION

Benefits are **DENIED** effective September 13, 2009. The claimant quit a job without good cause in connection with the employment, as defined by §72-1366 (5) of the Idaho Employment Security Law.

The employer's account **WILL NOT BE HELD CHARGEABLE** for experience rating purposes, in accordance with §72-1351 (2)(a) of the Idaho Employment Security Law.

The Eligibility Determination dated October 6, 2009, is hereby **AFFIRMED**.

Benefits are **DENIED** effective October 4, 2009 through October 2, 2010. The claimant willfully failed to report a material fact or made a false statement or representation in order to obtain unemployment insurance benefits, as defined by §72-1366 (12) of the Idaho Employment Security Law.

Benefits are **DENIED** effective September 13, 2009, through September 19, 2009. The claimant willfully made a false statement or willfully failed to report a material fact in order to obtain benefits, as defined by §72-1366 (12) of the Idaho Employment Security Law.

The Eligibility Determination dated October 6, 2009, is hereby **AFFIRMED**.

HISTORY OF THE CASE

The above-entitled matter was heard by Janet C. Hardy, Appeals Examiner for the Idaho Department of Labor, on November 16, 2009, by telephone in the City of Boise, in accordance with § 72-1368 (6) of the Idaho Employment Security Law.

The claimant, Dennis B. Current, appeared for the hearing and provided testimony. Bridgette Kerley, workforce consultant senior for the Idaho Department of Labor, appeared as a witness on behalf of the claimant.

The employers, Jan McLaughlin, co-owner of Haddons Fencing, Inc. (employer in fact); and Monica Bitrick of Advantage Employment Solutions (employer of record), were present and provided testimony. Advantage Employment Solutions is a Professional Employer Organization (PEO).

The respondent, Idaho Department of Labor, was represented by Gary Townsend, workforce consultant senior, who provided testimony.

Exhibits #1 through #13 were entered into and made a part of the record.

ISSUES

The issues before the Appeals Examiner are (1) whether unemployment is due to the claimant quitting voluntarily and, if so, whether with good cause connected with the employment –OR– being discharged and, if so, whether for misconduct in connection with the employment, according to §72-1366 (5) of the Idaho Employment Security Law; and (2) whether the employer's account is properly chargeable for experience rating purposes for benefits paid to the claimant, according to §72-1351 (2)(a) of the Idaho Employment Security Law; and (3) whether the claimant willfully made a false statement or representation or willfully failed to report a material fact in order to obtain unemployment insurance benefits, according to §72-1366 (12) of the Idaho Employment Security Law.

FINDINGS OF FACT

Additional facts or testimony may exist in this case. However, the Appeals Examiner outlines only those that are relevant to the decision and those based upon reliable evidence. Based on the exhibits and testimony in the record, the following facts are found:

1. The claimant worked for this employer most recently from June 9 or 10, 2008 through September 10, 2009. In the first four of the five calendar quarters preceding the one in which the claimant applied for benefits, this employer paid the claimant more wages than any other employer.
2. Employees were given the option to work or take off on Friday, September 11, 2009. The claimant opted not to work. Ms. McLaughlin reported hearing a loud noise on that day and found the claimant in the shop. He told her he was borrowing a tool for a side job he was doing. She asked if he meant he was "renting" a tool, as employees were not allowed to use company equipment on side jobs for free.

3. The claimant told Ms. McLaughlin he needed a raise or guaranteed hours in order to continuing working for Haddons. She told him she couldn't guarantee either. The following day (September 12) he turned in his keys and company credit card.
4. On September 14, the claimant filed an on-line claim in the Blackfoot Local Office and listed his reason for leaving as "lack of work-laid off". On September 21, 2009, the claimant spoke with Bridgette Kerley on the phone in response to a request he contact the Department. At that point, he advised Ms. Kerley he had quit due to reduced hours.
5. The claimant also stated he had contacted a previous employer (Wada Farms) and on September 8 was told he would be rehired for the harvest. He was scheduled to start working for them on September 15, but it was too wet. He started on September 16, 2009.
6. Ms. Bitrick testified the claimant had worked the following hours prior to his separation: For the pay period 7/22-8/4/09 – 71.93 hours; 8/5-8/18/09 – 78.95 hours; 8/19-9/1/09 – 79.22 hours; and 9/2-9/15/09 – 44.05 hours. The Appeals Examiner notes that in the final pay period, the claimant opted not to work on September 11, and had already quit and therefore did not work on either September 14 or September 15. The employer testified the claimant had left early on September 2. Based on the 44.05 hours of pay he received for that final pay period, the claimant chose not to work on at least three of those days (9/11, 9/14 and 9/15) and left early on 9/2/09. There was continuing work available.
7. The claimant now explains that when he filed his claim, he attempted to select multiple options as the reason for his separation (i.e. quit due to reduced hours), but the "system" wouldn't allow that. He chose "lack of work-laid off" because of the reduced hours. Mr. Townsend responded that the claimant is an experienced filer and has previously drawn unemployment insurance benefits.

AUTHORITY

Section 72-1351 (2)(a) of the Idaho Employment Security Law provides in part that for experience rating purposes, no charge shall be made to the account of such covered employer with respect to benefits paid to a worker who terminated his services voluntarily without good cause attributable to such covered employer, or who had been discharged for misconduct in connection with such services.

Section 72-1366 (5) of the Idaho Employment Security Law provides that a claimant shall be eligible for benefits provided unemployment is not due to the fact that the claimant left employment voluntarily without good cause, or was discharged for misconduct in connection with employment.

IDAPA 09.01.30.450. QUIT Ref. Sec. 72-1366 (5) Idaho Code.

01. Burden Of Proof. The claimant has the burden of proof to establish that he voluntarily left his employment with good cause in connection with the employment to be eligible for benefits.

02. Cause Connected With Employment. To be connected with employment, a claimant's reason(s) for leaving the employment must arise from the working conditions, job

tasks, or employment agreement. If the claimant's reason(s) for leaving the employment arise from personal/non job-related matters, the reasons are not connected with the claimant's employment.

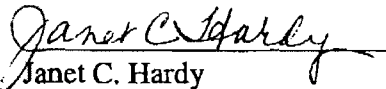
03. Good Cause. The standard of what constitutes good cause is the standard of reasonableness as applied to the average man or woman. Whether good cause is present depends upon whether a reasonable person would consider the circumstances resulting in the claimant's unemployment to be real, substantial, and compelling.

Idaho Code §72-1366 (12) A claimant shall not be entitled to benefits for a period of fifty-two (52) weeks if it is determined that he has willfully made a false statement or willfully failed to report a material fact in order to obtain benefits. The period of disqualification shall commence the week the determination is issued. The claimant shall also be ineligible for waiting week credit and shall repay any sums received for any week for which the claimant received waiting week credit or benefits as a result of having willfully made a false statement or willfully failed to report a material fact. The claimant shall also be ineligible for waiting week credit or benefits for any week in which he owes the department an overpayment, civil penalty, or interest resulting from a determination that he willfully made a false statement or willfully failed to report a material fact.

CONCLUSIONS

The claimant quit this employment for personal reasons. Thus, this separation was not for good cause in connection with the employment. The claimant is not eligible for benefits. The employer's account will not be charged.

The Appeals Examiner concludes that it has been established by the preponderance of the evidence that the claimant willfully made a false statement or representation in order to receive unemployment insurance benefits.


Janet C. Hardy
Appeals Examiner

Date of Mailing November 18, 2009 **Last Day To Appeal** December 2, 2009

APPEAL RIGHTS

You have **FOURTEEN (14) DAYS FROM THE DATE OF MAILING** to file a written appeal with the Idaho Industrial Commission. The appeal must be mailed to:

Idaho Industrial Commission
Judicial Division, IDOL Appeals
P.O. Box 83720
Boise, Idaho 83720-0041

Or delivered in person to:

Idaho Industrial Commission
700 S Clearwater Lane
Boise, ID 83712

Or transmitted by facsimile to:

(208) 332-7558.

If the appeal is mailed, it must be postmarked no later than the last day to appeal. An appeal filed by facsimile transmission must be received by the Commission by 5:00 p.m., Mountain Time, on the last day to appeal. A facsimile transmission received after 5:00 p.m. will be deemed received by the Commission on the next business day. A late appeal will be dismissed. Appeals filed by any means with the Appeals Bureau or a Department of Labor local office will not be accepted by the Commission. ***TO EMPLOYERS WHO ARE INCORPORATED:*** *If you file an appeal with the Idaho Industrial Commission, the appeal must be signed by a corporate officer or legal counsel licensed to practice in the State of Idaho and the signature must include the individual's title. The Commission will not consider appeals submitted by employer representatives who are not attorneys. If you request a hearing before the Commission or permission to file a legal brief, you must make these requests through legal counsel licensed to practice in the State of Idaho. Questions should be directed to the Idaho Industrial Commission, Unemployment Appeals, (208) 334-6024.*

If no appeal is filed, this decision will become final and cannot be changed. **TO CLAIMANT:** If this decision is changed, any benefits paid will be subject to repayment. If an appeal is filed, you should continue to report on your claim as long as you are unemployed.

IDAHO DEPARTMENT OF LABOR
APPEALS BUREAU
317 WEST MAIN STREET
BOISE, IDAHO 83735-0720
(208) 332-3572 / (800) 621-4938
FAX: (208) 334-6440

CERTIFICATE OF SERVICE

I hereby certify that on November 18, 2009, a true and correct copy of **Decision of Appeals Examiner** was served by regular United States mail upon each of the following:

DENNIS B CURRENT
898 W CENTER ST
BLACKFOOT ID 83221

HADDONS FENCING INC
c/o ADVANTAGE EMPLOYMENT SOLUTIONS
630 S WOODRUFF
IDAHO FALLS ID 83401

CLAIMS DIVISION
IDAHO DEPARTMENT OF LABOR
155 N MAPLE
P O BOX 9
BLACKFOOT ID 83221-0009





Docket No yr

[Docket](#) [Participants](#) [Exhibits](#) [Issues](#) [Calendar](#)
[Schedule](#) [Determinations](#)
Appeal Information

Must have both Docket No and Year to edit appeals.

Office SSN Appellant Party

File Date Process Status

Summary Info Only(can not edit below):

0132-2010

Issues:

Hearing Schedule:

Appellant:
 By:

Notes:

2009-11-12 15:50:16-(ms) - recv'd fax from CL gave to AE;
2009-11-09 08:38:34-(eg) - Em called saying witness has larengitis - told her to call in and explain to AE.;
2009-10-28 12:31:56-(ms) - CL called checking to see if hearing has been scd. Told him the dates & time NTH just went out yesterday he should be getting it soon. He had questions about rules & regs told him he should be able to find answers on the labor.idaho.gove website;

TO: Idaho Industrial Commission
700 S. Clearwater Lane
Boise, Id. 83712

Fax: (208) 332-7558

I Dennis B. Current request an appeal through the Idaho Industrial Commission.

I do not agree with the findings of Fact submitted by Janet Hardy. Specifically #2 #3 #4 #6 #7 and wish to clarify.

I was not given to option to work Friday the 11th of Sept. But was told no one was working that day. Also Janet Hardy is trying to represent that I was in the fence yard on the 11th of sept. That Jan McLaughlin heard a loud noise on the 11th and that the phone conversation between Jan and my self took place on the 11th

All this took place on Saturday the 12th although the discussion about the noise didnt occur at that time.

No employee was allowed to work on the 11th Due to No work being available. I was not in the Fence company Yard on the 11th of Sept.

FILED

NOV 30 2009

INDUSTRIAL COMMISSION

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Fax: (208) 332-7558

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When I spoke with Ms Kerley It was over the phone as I was working and could not go to the Job Service Center in person. At That time I told Ms Kerley that I had Quit Due to lack of work And not having Full time hours See Exhibit #5 pages 1,2

Mr Townsend is trying to represent That I willfully committed fraud and that I had an opportunity to change my selection of lack of work which is not correct. After reciving the confirmation of claim number 13794398 Dated 9/14/09 Exhibit 3 page 5 Exhibit 7 page 1

I left the Job Service Center and never saw or spoke to anyone or met with the consultant after completing my initial claim #13794398 Exhibit 6 page 3

Also I was not aware that I could have drawn unemployment benefits ~~prior to~~ while still working prior to Oct 5th 2009 when Mr Townsend explained this to me, Exhibit 6 page 2

Also I have tried to explain the reason that I selected lack of work Exhibit 12 Page 3,4,2

Exhibit 5 pages 1,2 Also Speaking to Janet Hardy claim that there was not good cause met see Exhibits 12 pages 5,6,7,8,9,10,11 which show my financial responsibilities

and that 44 hours in a two week period was insufficient met my financial needs not mentioning food, gas, and household needs. That is why I needed Full time employment Exhibit 12 pages 2, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 And the the paycheck #50372 Exhibit 12 page 12

Showing that an average man or woman such as my self would seek a job that would meet thier finacial responsibilities and that would compell them to quit as I did to obtain substantial employment.

~~I~~ I will state to you that I had been getting sick from Breathing the fumes of the gavanized pipe that was used to make the gates and that ~~the~~ only safety equipment was a welding hood and gloves and the only reason I stayed as long as I did was because my finacial responsibilities were being met with Full Time hours untill Sept 14 2009 check #50372 Exhibit 12 page 12

When I quit From Haddon's and went to work in the harvest for Wada Farms I made over \$1800.00 in the period ~~9-15-09-10-09-09~~ there by meeting my finicial needs and also have done some self employment, However at this time I am not working and winter is upon us and with out unemployment benifits I am likley to lose my house and be homeless in the middle of winter. I have made every effort to report accurate and true statments regaurding my unemployment claim Thank you For your Consideration

Dennis B. Current

Dennis B. Current
898 W. Center St.
Blackfoot Idaho
83221

WADA FARMS PAYROLL
 WADA FARMS, INC. Payroll Account
 326 SOUTH 1400 WEST
 PINGREE ID 83262
 USA

Employee: DENNIS CURRENT
 11555 SSN: - -
 ARN:

Crew: TR
 EIN: 82-0313231

Check: 6453
 Ck Dt: Oct 08, 2009
 From: Sep 19, 2009 Thru: Oct 02, 2009

6453

Date	Type	Hours	Pieces	Rate	Deductions	Earnings
Oct 02, 2009	LABOR	78.34		9.00		705.06
Totals:					.00	705.06

Hours	Gross	Other Pay	Fed W/H	Soc Sec	Medi	St W/H	St/Local	Other Ded	Net Pay
Period: 78.34	705.06	.00	.00	43.71	10.22	3.00	.00	.00	648.13
YTD: 173.50	1,561.50	.00	.00	96.81	22.64	3.00	.00		

WADA FARMS PAYROLL
 WADA FARMS, INC. Payroll Account
 326 SOUTH 1400 WEST
 PINGREE ID 83262
 USA

Employee: DENNIS CURRENT
 Id: 11555 SSN: - -
 ARN:
 Crew: TR
 EIN: 82-0313231

Check: 6194
 Ck Dt: Oct 01, 2009
 From: Sep 19, 2009 Thru: Sep 25, 2009

6194

Date	Type	Hours	Pieces	Rate	Deductions	Earnings
Sep 25, 2009	LABOR	65.47		9.00		589.23
Totals:					.00	589.23

Hours	Gross	Other Pay	Fed W/H	Soc Sec	Medi	St W/H	St/Local	Other Ded	Net Pay
Period: 65.47	589.23	.00	.00	36.53	8.55	.00	.00	.00	544.15
YTD: 95.16	856.44	.00	.00	53.10	12.42	.00	.00		

WADA FARMS PAYROLL
 WADA FARMS, INC. Payroll Account
 326 SOUTH 1400 WEST
 PINGREE ID 83262
 USA

Employee: DENNIS CURRENT
 Id: 11555 SSN: - -
 ARN:
 Crew: TR
 EIN: 82-0313231

Check: 6820
 Ck Dt: Oct 15, 2009
 From: Oct 03, 2009 Thru: Oct 09, 2009

6820

Date	Type	Hours	Pieces	Rate	Deductions	Earnings
Oct 09, 2009	LABOR	41.47		9.00		373.23
Totals:					.00	373.23

Hours	Gross	Other Pay	Fed W/H	Soc Sec	Medi	St W/H	St/Local	Other Ded	Net Pay
Period: 41.47	373.23	.00	.00	23.14	5.41	.00	.00	.00	344.68
YTD: 214.97	1,934.73	.00	.00	119.95	28.05	3.00	.00		

See Exhibit 17

17

Dennis Current
898 W. Center St.,
Blackfoot, Idaho

83221

2009 DEC -2 14 12:03
INDUSTRIAL COMMISS



0307 1740 0003 5076 8464

HOLIDAYS

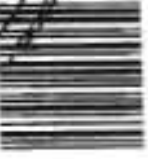


Idaho Industrial Commission
700 S. Clearwater Lane
Boise, Idaho 83712



FIRST CLASS Parcel

83712/7708



1 000

83712

\$1.58
00078578-02

POSTAGE
NOV 30 2008
BLACKFOOT, ID
AMOUNT

TO : Idaho Industrial Commission
700 S. Clearwater Lane
Boise, Id. 83712

2005-09-08
INDUSTRIAL COMMISSION
Fax : (208) 332-7558

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 WADA FARMS INC. Payroll Account
 326 SOUTH 1400 WEST
 PINGREE ID 83262
 USA

Employee: DENNIS CURRENT
 Id: 11555 SSN: - -
 ARN:

Crew: TR
 EIN: 82-0313231

Check: 6453
 Ck Dt: Oct 08, 2009
 From: Sep 19, 2009 Thru: Oct 02, 2009 **6453**

Date	Type	Hours	Pieces	Rate	Deductions	Earnings
Oct 02, 2009	LABOR	78.34		9.00		705.06
Totals:						705.06

	Hours	Gross	Other Pay	Fed W/H	Soc Sec	Medi	St W/H	St/Local	Other Ded	Net Pay
Period:	78.34	705.06	.00	.00	43.71	10.22	3.00	.00	.00	648.13
YTD:	173.50	1,561.50	.00	.00	96.81	22.64	3.00	.00		

WADA FARMS PAYROLL
 WADA FARMS INC. Payroll Account
 326 SOUTH 1400 WEST
 PINGREE ID 83262
 USA

Employee: DENNIS CURRENT
 Id: 11555 SSN: - -
 ARN:

Crew: TR
 EIN: 82-0313231

Check: 6820
 Ck Dt: Oct 15, 2009
 From: Oct 03, 2009 Thru: Oct 09, 2009 **6820**

Date	Type	Hours	Pieces	Rate	Deductions	Earnings
Oct 09, 2009	LABOR	41.47		9.00		373.23
Totals:						373.23

	Hours	Gross	Other Pay	Fed W/H	Soc Sec	Medi	St W/H	St/Local	Other Ded	Net Pay
Period:	41.47	373.23	.00	.00	23.14	5.41	.00	.00	.00	344.68
YTD:	214.97	1,934.73	.00	.00	119.95	28.05	3.00	.00		

WADA FARMS PAYROLL
 WADA FARMS INC. Payroll Account
 326 SOUTH 1400 WEST
 PINGREE ID 83262
 USA

Employee: DENNIS CURRENT
 Id: 11555 SSN: - -
 ARN:

Crew: TR
 EIN: 82-0313231

Check: 6194
 Ck Dt: Oct 01, 2009
 From: Sep 19, 2009 Thru: Sep 25, 2009 **6194**

Date	Type	Hours	Pieces	Rate	Deductions	Earnings
Sep 25, 2009	LABOR	65.47		9.00		589.23
Totals:						589.23

	Hours	Gross	Other Pay	Fed W/H	Soc Sec	Medi	St W/H	St/Local	Other Ded	Net Pay
Period:	65.47	589.23	.00	.00	36.53	8.55	.00	.00	.00	544.15
YTD:	95.16	856.44	.00	.00	53.10	12.42	.00	.00		

See Exhibit 12 page 12 in

Mr. Deane B. Current
898 W. Center St.
Blackfoot, ID 83221

**PROUD
SUPPORTER**
PARALYZED VETERANS OF AMERICA

POCATELLO ID 8301

01 DEC 2009 PM 4 T



2009 DEC 03
10:55 AM PST

Idaho Industrial Commission
700 S. Clearwater Lane
Boise Idaho 83712

83712+7708



BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

DENNIS B. CURRENT,)
SSN: [REDACTED])
Claimant,)
)
vs.)
)
HADDONS FENCING INC.,)
)
and)
)
ADVANTAGE EMPLOYMENT)
SOLUTIONS,)
Employers,)
)
and)
)
IDAHO DEPARTMENT OF LABOR.)
_____)

IDOL # 0132-2010

NOTICE OF FILING OF APPEAL

FILED

DEC 07 2009

INDUSTRIAL COMMISSION

PLEASE TAKE NOTICE: The Industrial Commission has received an appeal from a decision of an Appeals Examiner of the Idaho Department of Labor. A copy of the appeal is enclosed.

Further action will be taken by the Industrial Commission in accordance with its Rules of Appellate Practice and Procedure, a copy of which is enclosed.

PLEASE READ ALL THE RULES CAREFULLY

The Commission will make its decision in this appeal based on the record of the proceedings before the Appeals Examiner of the Idaho Department of Labor. To request a briefing schedule or hearing, refer to Rule 5(A) and 7(A,B) s of Appellate Practice and Procedure.

INDUSTRIAL COMMISSION
POST OFFICE BOX 83720
BOISE IDAHO 83720-0041
(208) 334-6024

CERTIFICATE OF SERVICE

I hereby certify that on the 7 day of December, 2009 a true and correct copy of the **Notice of Filing of Appeal (and compact disc of the Hearing to follow)** was served by regular United States mail upon the following:

APPEAL:

CLAIMS DIVISION
IDAHO DEPT OF LABOR
PO BOX 9
BLACKFOOT ID 83221-0009

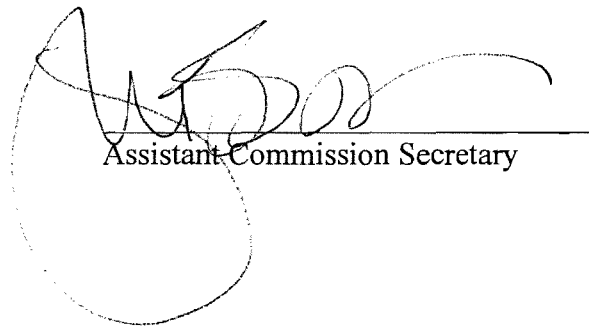
HADDONS FENCING INC
C/O ADVANTAGE EMPLOYMENT SOLUTIONS
630 S WOODRUFF
IDAHO FALLS ID 83401

APPEAL AND DISC:

DENNIS B CURRENT
898 W CENTER ST
BLACKFOOT ID 83221

DEPUTY ATTORNEY GENERAL
IDAHO DEPARTMENT OF LABOR
STATE HOUSE MAIL
317 W MAIN STREET
BOISE ID 83735

mcs



Assistant Commission Secretary

LAWRENCE G. WASDEN
ATTORNEY GENERAL

CRAIG G. BLEDSOE – ISB# 3431
KATHERINE TAKASUGI – ISB# 5208
TRACEY K. ROLFSEN – ISB# 4050
CHERYL GEORGE – ISB# 4213
Deputy Attorneys General
Idaho Department of Labor
317 W. Main Street
Boise, Idaho 83735
Telephone: (208) 332-3570 ext. 3184

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

DENNIS B. CURRENT,
Claimant,

vs.

HADDONS FENCING, INC.,
and

ADVANTAGE EMPLOYMENT
SOLUTIONS,
Employers,

and

STATE OF IDAHO,
DEPARTMENT OF LABOR.

IDOL NO. 0132-2010

NOTICE OF APPEARANCE

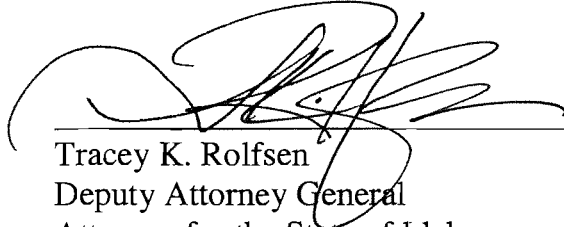
FILED
DEC 22 2009
INDUSTRIAL COMMISSION

TO THE ABOVE-NAMED PARTIES:

Please be advised that the undersigned Deputy Attorney General representing the Idaho Department of Labor hereby enters the appearance of said attorneys as the attorneys of record for the State of Idaho, Department of Labor, in the above-entitled NOTICE OF APPEARANCE - 1

proceeding. By statute, the Department of Labor is a party to all unemployment insurance appeals in Idaho.

DATED this 18th day of December, 2009.


Tracey K. Rolfsen
Deputy Attorney General
Attorney for the State of Idaho,
Department of Labor

CERTIFICATE OF MAILING

I HEREBY CERTIFY that a copy of the foregoing NOTICE OF APPEARANCE,
was mailed, postage prepaid, this 18th day of December, 2009, to:

DENNIS B CURRENT
898 W CENTER ST
BLACKFOOT ID 83221

HADDONS FENCING INC
C/O ADVANTAGE EMPLOYMENT SOLUTIONS
630 S WOODRUFF
IDAHO FALLS ID 83401

CLAIMS DIVISION
IDAHO DEPARTMENT OF LABOR
PO BOX 9
BLACKFOOT ID 83221-0009

Kenna Andrews

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

DENNIS B. CURRENT,)
Claimant,)
vs.)
HADDONS FENCING INC.,)
and)
ADVANTAGE EMPLOYMENT)
SOLUTIONS,)
Employers,)
and)
IDAHO DEPARTMENT OF LABOR.)
_____)

IDOL # 0132-2010

FILED
DEC 29 2009
INDUSTRIAL COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on the 29 day of December, 2009 a true and correct copy of the **compact disc of the Hearing held on November 16, 2009**, was served by regular United States mail upon the following:

DENNIS B CURRENT
898 W CENTER ST
BLACKFOOT ID 83221

DEPUTY ATTORNEY GENERAL
IDAHO DEPARTMENT OF LABOR
STATE HOUSE MAIL
317 W MAIN STREET
BOISE ID 83735

mcs


Assistant Commission Secretary

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

DENNIS B. CURRENT,)
SSN: [REDACTED])
Claimant,)
vs.)
HADDON'S FENCING, INC.,)
and)
ADVANTAGE EMPLOYMENT)
SOLUTIONS,)
Employers,)
and)
IDAHO DEPARTMENT OF LABOR.)

IDOL #0132-2010
DECISION AND ORDER

FILED
JAN 29 2010
INDUSTRIAL COMMISSION

Appeal of a Decision issued by an Idaho Department of Labor Appeals Examiner finding Claimant ineligible for benefits. AFFIRMED.

Claimant, Dennis B. Current, appeals to the Industrial Commission a Decision issued by Idaho Department of Labor ("IDOL" or "Department") finding him ineligible for unemployment benefits. The Appeals Examiner found that: 1) Claimant voluntarily quit his job with Haddon's Fencing, Inc. and Advantage Employment Solutions, dual employers, without good cause; 2) Employer's account is not chargeable for experience rating purposes; and 3) Claimant willfully made a false statement for the purpose of obtaining unemployment benefits when he indicated on his claim that he had been laid off for lack of work.

With his request for appeal, filed December 2, 2009, Claimant submitted additional testimony and documentary evidence for consideration on appeal. The Commission treats such correspondence as a request for a new hearing and we address this matter below.

The undersigned Commissioners have conducted a *de novo* review of the record pursuant to Idaho Code § 72-1368(7). Super Grade, Inc. v. Idaho Dept. of Commerce and Labor, 144 Idaho 386, 390, 162 P.3d 765, 769 (2007). The Commission has relied on the audio recording of the hearing before the Appeals Examiner conducted on November 16, 2009, along with the exhibits [1 through 13] admitted into the record during that proceeding.

NEW HEARING

Idaho Code § 72-1368(7) gives the Commission authority to “in its sole discretion, conduct a hearing to receive additional evidence or [...] remand the matter back to the appeals examiner for an additional hearing and decision.” In this case, Claimant seeks consideration on appeal of additional written testimony and documentary evidence. (Claimant’s request for appeal, filed December 2, 2009).

Rule 7(B) 5 of the Rules of Appellate Practice and Procedure Under the Idaho Employment Security Law, effective as amended, March 1, 2009, provides that a party requesting a hearing to offer additional evidence shall submit the “reason why the proposed evidence was not presented before the examiner.” Whether a party seeks to present additional evidence or make an oral argument based on the record as it stands, that party must present some justification for that request. Unemployment insurance appeals are adjudicated under the principles and procedures of administrative law. Hearings at this level of review are not a matter of right, as in some other forums.

Even though Claimant participated in the Appeals Examiner’s Hearing, he now seeks consideration on appeal of additional written testimony and documentary evidence. Prior to the hearing, Claimant was informed that he had an opportunity to investigate the issues related to his discharge and was informed that he would only be permitted to provide additional testimony after the hearing in rare circumstances. (Exhibit 2).

In addition, Claimant was notified in the documents accompanying the hearing notice of the procedures for submitting evidence to be admitted into the hearing record, and for requesting that the Appeals Examiner reopen the hearing. The information document clearly stated under the heading "EVIDENCE" the instructions for admitting evidence into the hearing record, and under "REOPENING THE HEARING" that Claimant had 10 days to file a request in writing with the Appeals Bureau if he had witnesses who were unable to appear at the hearing or had evidence that was not available at the time of the hearing. (Exhibit 2). There is no evidence in the record to suggest that Claimant took any steps to utilize the established procedures to admit evidence at the hearing or to request that the hearing be reopened.

The Idaho Supreme Court has consistently held that the Commission's determination of whether to consider additional evidence is within the Commission's sole discretion. Further, those decisions will not be overturned absent a showing of an abuse of that discretion. Appeals Examiner of Idaho Department of Labor v. J.R. Simplot Co., 131 Idaho 318, 955 P.2d 1097 (1998). The Commission takes the position that conducting a new hearing at this level of review is an extraordinary measure and should be reserved for those cases when due process or other interests of justice demand no less. We have carefully reviewed the record and can find no evidence that Claimant was deprived of due process. Consequently, Claimant's request for a new hearing is DENIED. Further, we will consider only that evidence in the record as established by the Appeals Examiner.

FINDINGS OF FACT

Based on the testimony and the evidence in the record, the Commission adopts its own Findings of Fact as set forth below:

1. Haddon's Fencing, Inc. (Haddon's) and Advantage Employment Solutions (Advantage) were dual employers (Employer) of Claimant from June 9 or 10, 2008 until September 10, 2009. Claimant performed work for Haddon's, which contracts out its payroll and

other human resource responsibilities to Advantage.

2. During the four pay periods immediately preceding Claimant's departure from Employer, he was paid for 71.93 hours (July 22-August 4, 2009), 78.95 hours (August 5-18, 2009), 79.22 hours (August 19-September 1, 2009) and 44.5 hours (September 2-15, 2009), respectively.
3. By September 7, 2009, Claimant knew he had another job with Wada Farms, for which he was officially hired on September 14. Claimant started that job on September 16, 2009.
4. On September 12, 2009, Claimant told Jan McLaughlin, of Haddon's, that he needed to be guaranteed 80 hours per week to keep working there. When Ms. McLaughlin told Claimant she could not provide such a guarantee, Claimant told her he wanted her to lay him off so he could get unemployment benefits. Ms. McLaughlin refused this request, as well, and Claimant had another employee deliver his company key and credit card to her.
5. Claimant quit his job; however, when he filed his claim for unemployment benefits on September 14, 2009, Claimant indicated that he was laid off for lack of work. As a result, the Department initiated an investigation that culminated in the allegation that Claimant made a willful misstatement of material fact on his claim.
6. In the first four of the five calendar quarters preceding the one in which Claimant applied for benefits, Employer paid Claimant more wages than any other employer.

DISCUSSION

Separation

We address the issue of Claimant's separation from employment first. There is no dispute that Claimant quit on September 12, 2009. (Audio recording). Therefore, the only issue before us is whether Claimant had good cause for quitting that job. Idaho Code § 72-1366(5) provides in part that a claimant is eligible for unemployment insurance benefits if he or she quits for good cause related to employment. If an employee voluntarily quits his or her job, that employee bears the burden of proving that the terms and conditions of that employment provided him or her with good cause to quit. Moore v. Melaleuca, Inc., 137 Idaho 23, 43 P.3d 782 (2002).

The Idaho Supreme Court and the Idaho Administrative Code both define what constitutes "good cause" for quitting employment for the purpose of establishing eligibility

for unemployment benefits. IDAPA 09.01.30.450.03 provides that good cause is established when the claimant demonstrates that his or her real, substantial, and compelling circumstances would have forced a “reasonable person” to quit. Stated another way, “good cause” exists when the essential conditions of the workplace environment are so extraordinary that an average person standing in the claimant’s place would prefer joblessness to continuing the employment relationship. *See Ewins v. Allied Security*, 138 Idaho 343, 347-48, 63 P3d 469, 473-74 (2004); *Burroughs v. Employment Sec. Agency*, 86 Idaho 412, 414, 387 P.2d 473, 474 (1963). Purely personal reasons are not “good cause” for quitting a job.

In addition, the good cause must be related to the employment. To be connected with employment, IDAPA 09.01.30.450.02 provides that a claimant’s reason(s) for leaving the employment must arise from the working conditions, job tasks or employment agreement. If the claimant(s) reasons for leaving the employment arise from personal/non-job-related matters, the reasons are not connected with the claimant’s employment. The employee must explore viable options before making the decision to quit. *Moore*, 137 Idaho at 28, 43 P.3d at 787.

Here, Claimant testified that he quit because Employer would not guarantee him 80 hours per pay period. (Audio recording). However, the record shows that Claimant received close to 80 hours for much of his employment. In the four pay periods immediately preceding his separation, Monica Bitrick, of Advantage, testified that Claimant was paid for 71.93 hours (July 22-August 4, 2009), 78.95 hours (August 5-18, 2009), 79.22 hours (August 19-September 1, 2009) and 44.5 hours (September 2-15, 2009), respectively. (Audio recording). Pay stubs provided by Claimant confirm Ms. Bitrick’s testimony. (Exhibit 12, pp. 20-22).

In addition, Claimant explained that he had secured another job, with Wada Farms, on September 7, 2009. (Audio recording). Thereafter, on September 12, Claimant told Ms. McLaughlin that he needed 80 hours per pay period to keep working at Haddon’s. (Audio

recording, Exhibit 12). Ms. McLaughlin testified that she declined because no employee was guaranteed 80 hours. (Audio recording). Ms. McLaughlin also testified, without objection, that Claimant then told her he wanted her to lay him off so that he could get unemployment benefits. (Audio recording). She reported this to Ms. Bitrick, as well. (Exhibit 4, p. 3). Ms. McLaughlin further testified that there was continuing work available for Claimant when he quit. (Audio recording).

After a careful review of the record, we find that the only week in which Claimant was paid for substantially fewer than 80 hours was his final week, in which he was paid for only 44.5 hours. Claimant quit on September 12, so there were 2 days (September 14 and 15) during that pay period in which Claimant was no longer employed. In addition, Claimant testified that his supervisor told him not to work on September 11. (Audio recording; Exhibit 12, p. 2). Although Ms. McLaughlin testified that Claimant was given the option to work on September 11, she did not dispute Claimant's testimony that his supervisor had told him otherwise. (Audio recording).

There is no evidence in the record to suggest that Claimant would not have worked full days on September 14 and 15, had he not quit. Therefore, he could have potentially been paid for 60.5 hours for the pay period ending September 15, 2009. Although this is a significant reduction in hours, in light of the history of full-time or near full-time employment at Haddon's, and the related potential for more than 60.5 hours in the following pay periods, we do not find that an average person would have preferred joblessness. As a result, we must also find that Claimant did not meet his burden of proving that he had good cause to quit his job with Employer and, consequently, Claimant is ineligible for unemployment benefits.

In this case, Employer paid the most wages to Claimant during the last four base quarters. (Exhibit 3, p. 1). Idaho Code §72-1351(2)(a) provides that an employer's experience rated account is chargeable for benefits paid to a claimant whose separation from employment resulted

from discharge for reasons other than misconduct or a voluntary separation for good cause. Because we conclude that Claimant quit his job with Employer without good cause, we find that Employer's account is not chargeable for experience rating purposes.

Misstatement of Material Fact

Next, we address the issue of Claimant's failure to accurately report the reason for his separation from Employer. (Audio recording; Exhibit 9). Idaho Code § 72-1366(12), provides that a claimant is ineligible for unemployment insurance benefits if it is determined that he or she willfully made a false statement or failed to report a material fact to IDOL. A fact is material "if it is relevant to the determination of a claimant's right to benefits; it need not actually affect the outcome of the determination." Meyer v. Skyline Mobile Homes, 99 Idaho 754, 760, 589 P.2d 89, 95 (1979).

Given that Claimant's accuracy in reporting his reason for separation from employment is relevant to the determination of Claimant's right to benefits, we find that this is a material fact for the purposes of this proceeding. Therefore, pursuant to Idaho Code § 72-1366(12), we must find Claimant is ineligible for unemployment insurance benefits if he willfully made a false statement or failed to accurately report the reason for his separation from employment to IDOL for the purpose of obtaining unemployment benefits.

Along those lines, Claimant does not deny that he reported in his claim for benefits that he had been laid off by Employer for lack of work. (Audio recording; Exhibit 3, p. 1). Claimant testified that, because he quit for lack of work, he believed the choice, "lack of work/laid off" to be the correct response. (Audio recording).

We found, above, that Claimant quit without good cause in connection with his employment. As a result, Claimant did not accurately report the reason for his separation when he indicated he was laid off for lack of work. (Audio recording). Therefore, the question before

us is whether Claimant's failure to accurately report the relevant material facts was willful. Under the Idaho Supreme Court's interpretation of the word "willful," it is not necessary to demonstrate an evil intent on Claimant's part to reach a conclusion that his or her conduct was willful. In Gaehring v. Department of Employment, 100 Idaho 118, 594 P.2d 628 (1979), the Idaho Supreme Court affirmed the Commission's determination that the claimant willfully failed to report his earnings based on evidence that the claimant was aware of the regulations regarding unemployment insurance. Gaehring, 100 Idaho at 119, 594 P.2d at 629.

Claimant testified that he never meant to represent anything other than that he quit for lack of enough work. (Audio recording; Exhibit 12, pp. 1-4). He further testified that he believed "lack of work/laid off" to mean that he was unemployed either due to a lack of work or due to being laid off and, since he quit for lack of enough work, he believed he had selected the correct response. (Audio recording).

Bridgette Kerley and Gary Townsend, both senior workforce consultants with the Department, confirmed that Claimant told each of them that he had quit for lack of work. (Audio recording). They further testified that Claimant was stubbornly adamant, in the face of admonitions from each of them that he should have reported that he "quit," that "lack of work/laid off" was the correct response. (Audio recording). Further, as noted above, Ms. McLaughlin testified, without objection, that Claimant told her he wanted her to lay him off so that he could get unemployment benefits. (Audio recording).

We recognize that individuals filing claims for unemployment benefits do make inadvertent errors that do not stem from any malicious intent. However, in this case the evidence is adequate to establish that Claimant knew or should have known that "quit" was the correct response to the question seeking information about why he was no longer working for Employer. Claimant was an experienced filer who knew or should have known the distinctions between

“quit”, “lack of work/laid off” and “discharged”. (Exhibit 3, pp. 1-2). Along those lines, telling Ms. McLaughlin that he wanted her to lay him off indicates that Claimant knew there was a functional difference between being laid off for lack of work and quitting for lack of enough work. Further, had Claimant wished to comply with the applicable regulations, he would have amended his claim when Ms. Kerley and Mr. Townsend told him that he had erred.

Claimant’s failure to accurately report his separation of employment information constitutes a disregard of his obligation to report this information as accurately as possible. Therefore, we find that Claimant’s behavior during the relevant weeks was the type Idaho Code § 72-1366(12) was intended to discourage. Claimant is ineligible for benefits.

CONCLUSIONS OF LAW

Based on our analysis above, we conclude that:

I

Claimant voluntarily quit his job with Employer without good cause in connection with his employment.

II

Employer’s account is not chargeable for experience rating purposes.

III

Claimant willfully misstated a material fact for the purpose of obtaining unemployment benefits and is ineligible for benefits effective September 13, 2009 through September 19, 2009 and October 4, 2009 through October 2, 2010.

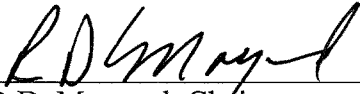
ORDER

Based on the foregoing analysis, the Decision of the Appeals Examiner is AFFIRMED. Claimant voluntarily quit his job without good cause and is ineligible for benefits. As a result, Employer’s account is not chargeable for experience rating purposes. Claimant willfully

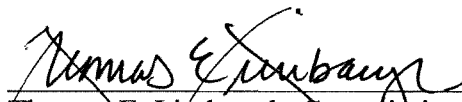
misstated a material fact for the purpose of obtaining unemployment benefits and is ineligible for benefits effective September 13, 2009 through September 19, 2009 and October 4, 2009 through October 2, 2010. This is a final order under Idaho Code § 72-1368(7).

DATED this 29 day of January 2010.

INDUSTRIAL COMMISSION



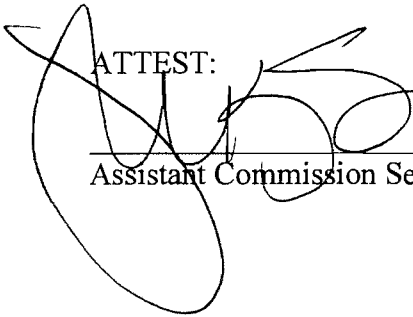
R.D. Maynard, Chairman



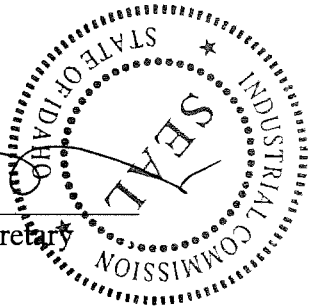
Thomas E. Limbaugh, Commissioner



Thomas P. Baskin, Commissioner

ATTEST:


Assistant Commission Secretary



CERTIFICATE OF SERVICE

I hereby certify that on the 29 day of January 2010, a true and correct copy of the **Decision and Order** was served by regular United States mail upon each of the following:

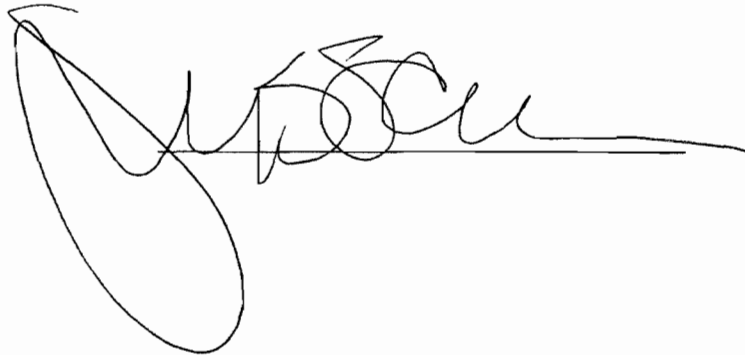
DENNIS B CURRENT
898 W CENTER ST
BLACKFOOT ID 83221

HADDONS FENCING INC
C/O ADVANTAGE EMPLOYMENT SOLUTIONS
630 S WOODRUFF
IDAHO FALLS ID 83401

CLAIMS DIVISION
IDAHO DEPT OF LABOR
PO BOX 9
BLACKFOOT ID 83221-0009

DEPUTY ATTORNEY GENERAL
IDAHO DEPARTMENT OF LABOR
STATE HOUSE MAIL
317 W MAIN STREET
BOISE ID 83735

jkc

A large, stylized handwritten signature in black ink, appearing to be 'J. K. C.', written over a horizontal line.

KEVIN C. PETERSON
Attorney at Law
154 S. Oak PO Box 1387
Blackfoot, Idaho 83221
Telephone: (208) 785-1603
Fax: (208) 782-0348

To: ATTN: Department of Labor

Fax #: (208) 334-2321

From: Kevin C. Peterson/ Attorney at Law

Date: February 18, 2010

Subject: Re: Haddon's Fencing vs. Dennis B. Current.

Pages: (2) INCLUDING THE COVERSHEET

NOTES:

RECEIVED
INDUSTRIAL COMMISSION
2010 FEB 18 11:21

The pages comprising this facsimile transmission contain confidential information from Kevin C. Peterson. This information is intended solely for use by the individual entity named as the recipient hereof. If you are not the intended recipient be aware that any disclosure, copying, distribution, or use of the contents of this transmission is prohibited. If you have received this transmission by error, please notify us by telephone immediately so we may arrange to retrieve this transmission at no cost to you.

Office Of
KEVIN C. PETERSON
Attorney at Law

154 S. Oak
P.O. Box 1387
Blackfoot, ID 83221
Telephone: (208) 785-1603
Facsimile: (208) 782-0348

February 18, 2010

Idaho Industrial Commission
Fax# 208-334-2321

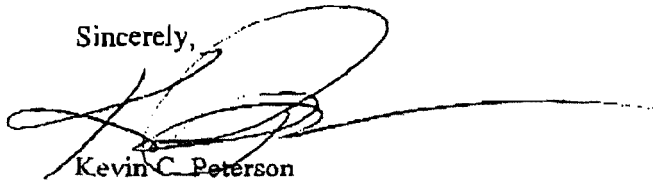
Re: Haddon's Fencing vs. Idaho Department of Labor

Dear Department of Labor:

I currently represent Dennis B. Current and we have reviewed your decision of January 29th, 2010 and request formal appeal in the matter.

Please advise if any additional documentation is required.

Sincerely,



Kevin C. Peterson
Attorney at Law
KCP/cp

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2010 FEB 18 A 11:21

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

DENNIS B. CURRENT,)
)
 Claimant,)
)
 vs.)
)
 HADDONS FENCING INC.,)
)
 and)
)
 ADVANTAGE EMPLOYMENT)
 SOLUTIONS,)
 Employers,)
)
 and)
)
 IDAHO DEPARTMENT OF LABOR.)
)
 _____)

IDOL # 0132-2010

FILED

FEB 19 2010

INDUSTRIAL COMMISSION

CERTIFICATE OF SERVICE

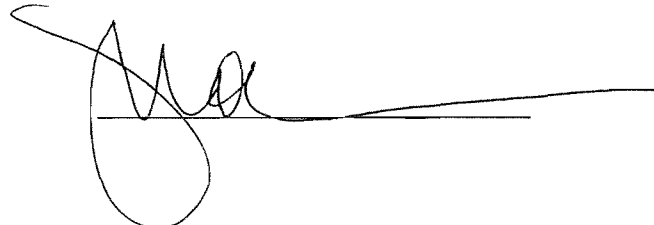
I hereby certify that on the 19 day of February, 2010 a true and correct copy of **Claimant's Attorneys Notice of Appearance, filed February 18,2010** was served by regular United States mail upon the following:

HADDONS FENCING INC
C/O ADVANTAGE EMPLOYMENT SOLUTIONS
630 S WOODRUFF
IDAHO FALLS ID 83401

DENNIS B CURRENT
C/O KEVIN C PETERSON
154 S OAK
PO BOX 1387
BLACKFOOT IDAHO 83221

DEPUTY ATTORNEY GENERAL
IDAHO DEPARTMENT OF LABOR
STATE HOUSE MAIL
317 W MAIN STREET
BOISE ID 83735

mcs



TO: Idaho Industrial Commission
 PO Box 83720
 Boise, Idaho 83720-0041
 (208) 332-7558

From: Dennis B. Current
 898 W. Center St.
 Blackfoot Idaho 83221

FILED
 FEB 18 2010
 INDUSTRIAL COMMISSION

This is a written request for reconsideration on the grounds that I was not granted a testimony for a witness that I requested at my phone hearing. I had made arrangements for both witnesses to testify on the original date of the phone hearing. The Examiner granted the employer a continuance for a later date. The examiner made no effort to contact my witness even though I provided the contact information to the examiner, thereby not allowing me that witness. The witness I requested worked for the state of Idaho Labor Dept. The witness could have been reached if an attempt was made by the Examiner. The Examiner chose not to attempt to reach the witness against my request. I was not able to provide testimony in violation of my legal rights.

Dennis B Current

TRANSACTION REPORT

P. 01

FEB-18-2010 THU 11:18 AM

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DATE	START	SENDER	RX TIME	PAGES	TYPE	NOTE	M#	DP
FEB-18	11:18 AM	208 785 2665	20"	1	RECEIVE	OK		

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

DENNIS B. CURRENT,)
Claimant,)
vs.)
HADDONS FENCING INC.,)
and)
ADVANTAGE EMPLOYMENT)
SOLUTIONS,)
Employers,)
and)
IDAHO DEPARTMENT OF LABOR.)
_____)

IDOL # 0132-2010

FILED

FEB 19 2010

INDUSTRIAL COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on the 19 day of February 2010 a true and correct copy of the **Claimant's request for reconsideration, filed February 18, 2010**, was served by regular United States mail upon the following:

HADDONS FENCING INC
C/O ADVANTAGE EMPLOYMENT SOLUTIONS
630 S WOODRUFF
IDAHO FALLS ID 83401

DEPUTY ATTORNEY GENERAL
IDAHO DEPARTMENT OF LABOR
STATE HOUSE MAIL
317 W MAIN STREET
BOISE ID 83735

mcs


Assistant Commission Secretary

Cc: DENNIS B CURRENT
898 W CENTER ST
BLACKFOOT ID 83221

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

DENNIS B. CURRENT,)
)
 Claimant,)
 v.)
)
 HADDONS FENCING INC.,)
)
 and)
)
 ADVANTAGE EMPLOYMENT SOLUTIONS,)
)
 Employers,)
 and)
)
 IDAHO DEPARTMENT OF LABOR.)
 _____)

IDOL # 0132-2010

ORDER DENYING
RECONSIDERATION

FILED
APR 29 2010
INDUSTRIAL COMMISSION

Claimant filed a timely Motion for Reconsideration pursuant to Idaho Code §72-1368(7). Claimant requests reconsideration of the Idaho Industrial Commission’s Decision and Order filed on January 29, 2010. The Commission affirmed the Decision issued by an Appeals Examiner with the Idaho Department of Labor (“IDOL”) determining Claimant to be ineligible for unemployment insurance benefits. The Commission found that: 1) Claimant voluntarily quit his job with Employer without good cause in connection with his employment, 2) that Employer’s account is not chargeable for experience rating purposes, and 3) that Claimant willfully misstated a material fact for the purpose of obtaining unemployment benefits and is ineligible for benefits effective September 13, 2009 through September 19, 2009 and October 4, 2009 through October 2, 2010.

Claimant worked as a fencer for Employer. Claimant testified that he quit because Employer would not guarantee him 80 hours per pay period. The evidence showed that only Claimant’s final pay period was significantly lower than 80; it was 44.5 hours for less than a full pay period. Also, Claimant had secured another job. Claimant quit because Employer would not guarantee him 80 hours per pay period. The Commission concluded that Claimant quit without

good cause related to his employment because he was still being offered more than 20 hours of work per week and further Claimant quit to start another job. Additionally, the Commission found that Claimant willfully made a false statement for the purpose of obtaining unemployment benefits when he indicated on his claim that he had been laid off for lack of work.

On reconsideration Claimant states that he was not able to provide the testimony of a witness at the Appeals Examiners hearing. After Claimant's testimony he requested the Appeals Examiner call two witnesses. The first witness was only identified as Robin, an employee with IDOL. Claimant explained that Robin would testify about a complaint that Claimant had filed. Claimant also acknowledged that he had not made arrangements with Robin for her to testify. The Appeals Examiner concluded that the complaint was not relevant to the noticed issues at the hearing.

Claimant's second witness, Bridgett Kerley, a senior workforce consultant with IDOL, was prepared to testify and was called by the Appeals Examiner. Ms. Kerley testified that she had completed Exhibit 5 per her telephone conversation with Claimant. Ms. Kerley testified that Claimant was adamant, regardless of her explanation of his quit as a "quit", that he correctly reported the quit as "lack of work/laid off."

Appeals Examiners have latitude in determining the relevance and necessity of testimony. Claimant had not made arrangements with Robin for her testimony and when asked what her testimony would include Claimant referred to a complaint he filed, presumably with the IDOL. The Appeals Examiner correctly noted that the hearing would only be addressing the issues as set forth in the notice of hearing. Thus, Robin's testimony was not necessary and Claimant was given a full opportunity to present his case.

Claimant's request for reconsideration does not provide a new legal argument that would cause the Commission to reconsider its previous Decision and Order. The Commission has

reviewed the facts in evidence as well as the legal analysis, and Claimant has presented no basis to disturb the Decision and Order.

Based on the foregoing reasons, Claimant's request for reconsideration is DENIED.

IT IS SO ORDERED.

DATED this 29 day of April, 2010.

INDUSTRIAL COMMISSION

R.D. Maynard, Chairman

Thomas E. Limbaugh
Thomas E. Limbaugh, Commissioner

Thomas P. Baskin
Thomas P. Baskin, Commissioner

ATTEST:
[Signature]
Assistant Commission Secretary



CERTIFICATE OF SERVICE

I hereby certify that on the 29 day of April, 2010 a true and correct copy of **ORDER DENYING RECONSIDERATION** was served by regular United States Mail upon:

DENNIS B CURRENT
C/O KEVIN C PETERSON
154 S OAK
PO BOX 1387
BLACKFOOT ID 83221

DEPUTY ATTORNEY GENERAL
IDAHO DEPARTMENT OF LABOR
STATE HOUSE MAIL
317 W MAIN STREET
BOISE ID 8373

HADDONS FENCING INC
C/O ADVANTAGE EMPLOYMENT SOLUTIONS
630 S WOODRUFF
IDAHO FALLS ID 83401

mcs

[Signature]

ORDER DENYING RECONSIDERATION

KEVIN C. PETERSON
Attorney at Law
154 S. Oak PO Box 1387
Blackfoot, Idaho 83221
Telephone: (208) 785-1603
Fax: (208) 782-0348

To: ATTN: *Idaho Industrial Commission*

Fax #: 208- 332- 7558

From: Kevin C. Peterson/ Attorney at Law

Date: 5/24/10

Subject: *Appeal for Reconsideration*

Pages: 4 INCLUDING THE COVERSHEET

NOTES:

Please find attached letter from Dennis Current regarding his appeal of your Order Denying Reconsideration that was filed on 4/29/10.

*Thanks
Peterson Law Office*

INDUSTRIAL COMMISSION

MAY 24 2010

FILED

The pages comprising this facsimile transmission contain confidential information from Kevin C. Peterson. This information is intended solely for use by the individual entity named as the recipient hereof. If you are not the intended recipient be aware that any disclosure, copying, distribution, or use of the contents of this transmission is prohibited. If you have received this transmission by error, please notify us by telephone immediately so we may arrange to retrieve this transmission at no cost to you.

44

TO: Idaho Industrial Commission
700 S. Clearwater Lane
Boise, Id. 83712

Fax: (208) 332-7558

INDUSTRIAL COMMISSION

MAY 24 2010

FILED

I Dennis B. Current request an appeal through
the Idaho Industrial Commission.

I do not agree with the findings of Fact
submitted by Janet Hardy. Specifically #2 #3
#4 #6 #7 and wish to clarify.

I was not given the option to work Friday the
11th of Sept. But was told no one was working that
day. Also Janet Hardy is trying to represent that I
was in the fence yard on the 11th of Sept. That Jan
McLaughlin heard a loud noise on the 11th and that the phone
conversation between Jan and my self took place on the 11th

All this took place on Saturday the 12th although
the decision about the noise didn't occur at that time.

No employee was allowed to work on the 11th
Due to No work being available. I was not in the
Fence company Yard on the 11th of Sept.

When I spoke with Ms Kerley I was over the phone as I was working and could not go to the Job Service Center in person. At that time I told Ms Kerley that I had quit due to lack of work and not having full time hours see Exhibit #15 pages 1, 2

Mr Townsend is trying to represent that I willfully committed fraud and that I had an opportunity to change my selection of lack of work which is not correct. After receiving the confirmation of claim number 13794398 Dated 9/14/09 Exhibit 3 page 5 Exhibit 7 page 1

I left the Job Service Center and never saw or spoke to anyone or met with the consultant after completing my initial claim #13794398 Exhibit 6 page 3

Also I was not aware that I could have drawn unemployment benefits ~~paid to~~ while still working prior to Oct 5th 2009 when Mr Townsend explained this to me. Exhibit 6 page 2 Also I have tried to explain the reason that I selected lack of work Exhibit 12 Page 3, 4, 2

Exhibit 5 pages 1, 2 Also speaking to Janet Hardy claim that there was not good cause met see Exhibits 12 pages 5, 6, 7, 8, 9, 10, 11 which show my financial responsibilities and that 44 hours in a two week period was insufficient to meet my financial needs not mentioning food, gas, and household needs. That is why I needed full time employment Exhibit 12 pages 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 And the the paycheck #50373. Exhibit 12 page 1: could not fulfill that

Showing that an average man or woman such as my self would seek a job that would meet thier financial responsibilities and that would compell them to quit as I did to obtain substantial employment.

~~I~~ I will state to you that I had been getting sick from Breathing the fumes of the gavanized pipe that was used to make the gates and that ~~the~~ only safety equipment was a welding hood and gloves and the only reason I stayed as long as I did was because my financial responsibilities were being met with Full Time hours untill Sept 14 2009 check # 50372 Exhibit 12 page 12

When I quit From Haddons and went to work in the harvest for Wada Farms I made over \$ 1800.00

In the period ~~9-15-09-10-09-09~~ ⁹⁻¹⁵⁻⁰⁹⁻¹⁰⁻⁰⁹⁻⁰⁹ there by meeting my financial needs and also have done some self employment, However at this time I am not working and winter is upon us and with out unemployment benifits I am likly to lose my house and be homeless in the middle of winter. I have made every effort to report accurate and true statments regarding my unemployment claim Thank you For your Consideration

Dennis B. Current

Dennis B. Current
896 W. Center St.
Blackfoot Idaho
83221

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

DENNIS B. CURRENT,)
Claimant,)
vs.)
HADDONS FENCING INC.,)
and)
ADVANTAGE EMPLOYMENT)
SOLUTIONS,)
Employers,)
and)
IDAHO DEPARTMENT OF LABOR.)
_____)

IDOL # 0132-2010

FILED
MAY 25 2010
INDUSTRIAL COMMISSION

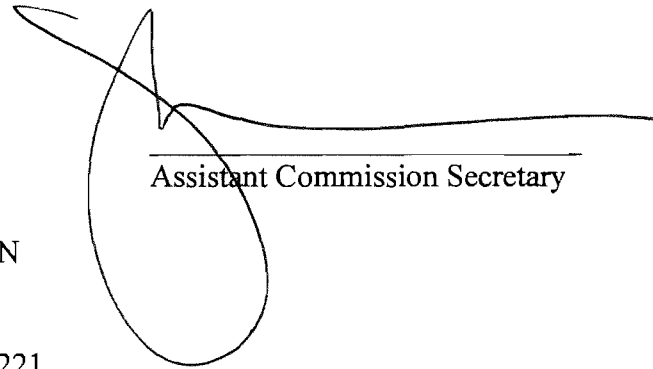
CERTIFICATE OF SERVICE

I hereby certify that on the 25 day of May 2010 a true and correct copy of the **Claimant's second request for reconsideration, filed May 24, 2010**, was served by regular United States mail upon the following:

HADDONS FENCING INC
C/O ADVANTAGE EMPLOYMENT SOLUTIONS
630 S WOODRUFF
IDAHO FALLS ID 83401

DEPUTY ATTORNEY GENERAL
IDAHO DEPARTMENT OF LABOR
STATE HOUSE MAIL
317 W MAIN STREET
BOISE ID 83735

mcs



Assistant Commission Secretary

Cc: KEVIN C PETERSON
154 S OAK PL
PO BOX 1387
BLACKFOOT ID 83221



Monday - Friday 9 am - 7pm Saturday 9am - 4pm
Closed Sunday

Monday - Friday 8am - 6pm Saturday 9am - 4pm
Closed Sunday

1350 Parkway Dr. #20 939 S. 25th East #105
Blackfoot Ammon
Tel: 208-785-2626 Tel: 208-522-3085
Fax: 208-785-2665 Fax: 208-552-3087

1795 W. Broadway
Idaho Falls
Tel: 208-542-5400
Fax: 208-552-1179

FAX COVER SHEET

ATTENTION: Mary Idaho Industrial Commission

FROM: Dennis Current

PAGES INCLUDING COVER SHEET: 5

this ~~Duplicate~~ Fax is Dated May 28 2010
signed By Dennis Requesting Appeal to Supreme Court
and notifying of Pro Se Dennis Current

FILED
MAY 28 2010
INDUSTRIAL COMMISSION

TO: Idaho Industrial Commission
P.O. Box 83720
Boise, Idaho 83720-0041

From: Dennis Current
898 W. Center St
Blackfoot Idaho 83221

INDUSTRIAL COMMISSION
MAY 28 2010
FILED

written Request for Appeal to
Supreme Court Idaho and Notification
of Pro Se IDOL # 0132-0041

Filed April 29 2010. The examiner granted continuance

for employer of initial phone hearing. I had made arrangements for my
witnesses but due to postponement of phone hearing I was unable to recontact
for Robin with IDOL. Examiner made no effort to contact Robin's extension
Examiner stated that we (each of the parties) would be allowed witnesses..

she lied. By not allowing testimony to be heard Examiner Erred. I was not

given full opportunity to present my case. I would argue that the
testimony not allowed not allowed by Examiner had relevance and by
Denying testimony denied me full opportunity to present my case. I

Dennis Current Pro Se request "Service" and proof of "Filling" as an
Interested Party " Pro Se to Dennis Current 898 W. Center St. Blackfoot Id 83221

Also I would request transcription of both Phone Hearings. Please mail all
'Service' and proof of "filling" to Dennis Current 898 W. Center St.
Blackfoot Idaho 83221

Thankyou Dennis B. Current

TO: Idaho Industrial Commission

I was wrongly deniged a witness

The Commission erred in its decision.

I had made arrangements with both of my witnesses but due to a postponment granted by Janet Hardy Rearangments could not be made with Robin and Janet Hardy refused to

~~even try to contact her even though there was~~

an extension number for her and she worked for the Dept of Labor and could be reached

I requested Robin as a witness and strongly objected to Janet Hardy ruling to not call her.

The issues in the notice of hearing had relevant ~~testimony~~ testimony from Robin and I was not

~~allowed to~~ given full oportunity to present my case without testimony from Robin

The complaint stated omissions and paraphrasing by Gary Townsend that there were

③

As to good cause I was not permitted My Witness to confirm my quit due to illness caused by welding galvanized pipe in the manufacture of the gates in my position as Shop foreman. This was omitted by Gary Townsend from our interview.

As to I did not make a false statement

I stated that I quit due to lack of work, causing financial hardship from reduced hours.

As to not being allowed Robin as a witness by Janet Hardy would show that Gary Townsend omitted facts that showed I quit also from illness caused to be confirmed by Robin also not mentioned was the paying in cash by Haddon's for hours of overtime.

Arrangements had been made with Robin and Bridgett Kerley but because a ~~postponement~~ postponement granted by Janet Hardy Robin could not be rearranged

Fax (208) 332-7558

TO: Industrial Commission
State of Idaho

From: Dennis B. Current
898 W. Center St.

Blackfoot Idaho
83221

INDUSTRIAL COMMISSION

MAY 28 2010

FILED

Request Reconsideration
on the grounds That I
was not granted a witness
that I had Requested in my
Phone hearing and the examiner
made no attempt to contact the

witness even though the witness was
employed with the state of Idaho and could
be reached. The Examiner granted continuance
for employer after I had made arrangements for
both witness to testify on original date.

53

TOTAL P.05

***** -COMM. JOURNAL- ***** DATE MAY-28-2010 ***** TIME 12:27 *****

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END=MAY-28 12:27

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-PARCEL EXPRESS -

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- ***** -

208 785 2665- *****



FILED

MAY 28 2010

INDUSTRIAL COMMISSION

Monday - Friday 9 am - 7pm Saturday 9am - 4pm
Closed Sunday

Monday - Friday 8am - 6pm Saturday 9am - 4pm
Closed Sunday

1350 Parkway Dr. #20 Blackfoot
Tel: 208-785-2626 Fax: 208-785-2665

939 S. 25th East #105 Ammon
Tel: 208-522-3085 Fax: 208-552-3087

1795 W. Broadway Idaho Falls
Tel: 208-542-5400 Fax: 208-552-1179

FAX COVER SHEET

ATTENTION: Mary Idaho Industrial Commission

FROM: Dennis Current

PAGES INCLUDING COVER SHEET: 5

this ~~Document~~ Fax is Dated May 28 2010
signed By Dennis Requesting Appeal to Supreme Court
and notifying of Pro Se Dennis Current

54

TOTAL P.01

(1)

TO: Idaho Industrial Commission
P.O. Box 83720
Boise, Idaho 83720-0041

From: Dennis B. Current
898 W. Center St.
Blackfoot, Idaho 83221

INDUSTRIAL COMMISSION
FILED
MAY 28 2010

Written Request for Reconsideration

IDOL # 0132-2010 order denying Reconsideration
filed April 29 2010. I seek only the Truth Nothing But the Truth
the whole Truth in this matter

The examiner granted continuance for employer of initial
phone hearing. I had made arrangements for my witnesses but due to
postponment of phone hearing I was unable to rearrange for Robin with
IDOL. Examiner made no effort to contact Robin. Examiner stated
that we (each of the parties) would be allowed witnesses. She lied.
By not allowing testimony to be heard Examiner Errored. I was not able
or given full opportunity to present my case. Question ??? How
was Examiner correct in not allowing testimony ~~or~~ or the relevance
of testimony without hearing said testimony? Did she have a crystal Ball?
I would argue that the testimony not allowed to be heard had relevance and
by not allowing that witness she the Examiner denied me full opportunity
to present my case. I Dennis Current also request service of all Decisions
to Dennis Current 898 W. Center St. Blackfoot Idaho 83221 so that a timely
response can be made. Also I would request a transcript of the Phone hearings
both of them. Please mail all orders and Decisions and any correspondence
to Dennis Current 898 W. Center St. Blackfoot, Idaho 83221

Thank you Dennis B Current 55

TO: Idaho Industrial Commission

I was wrongly deniged a witness

The Commission erred in its decision.

I had made arrangements with both of my witnesses but due to a postponement granted by Janet Hardy Rearrangements could not be made with Robin and Janet Hardy refused to even try to contact her even though there was an extension number for her and she worked for the Dept. of Labor and could be reached

I requested Robin as a witness and strongly objected to Janet Hardy ruling to not call her.

The issues in the notice of hearing had relevant ~~testimony~~ testimony from Robin and I was not ~~allowed to~~ given full opportunity to present my case without testimony from Robin

The complaint stated omissions and paraphrasing by Gary Townsend that there were

③

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As to not being allowed Robin as a witness by Janet Hardy would show that Gary Townsend omitted facts that showed I quit also from illness caused to be confirmed by Robin also not mentioned was the paying in cash by Haddon's for hours of overtime.

Arrangements had been made with Robin and Bridgett Kerley but because a ~~request~~ postponement granted by Janet Hardy Robin could not be rearranged

57

Dennis Current

898 W. Center St.
Riverside, CA 92507

Fax (208) 332-7558

TO: Industrial Commission
State of Idaho

From: Dennis B. Current
898 W. Center St.
Blackfoot Idaho
83221

Request Reconsideration
on the grounds that I
was not granted a witness
that I had requested in my
Phone hearing and the examiner
made no attempt to contact the
witness even though the witness was
employed with the state of Idaho and could
be reached. The Examiner granted continuance
for employer after I had made arrangements for
both witnesses to testify on original date.

Dennis B. Current

TOTAL P.04

58

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

DENNIS B. CURRENT,)
Claimant,)
vs.)
HADDONS FENCING INC.,)
and)
ADVANTAGE EMPLOYMENT)
SOLUTIONS,)
Employers,)
and)
IDAHO DEPARTMENT OF LABOR.)
_____)

IDOL # 0132-2010

FILED
JUN 01 2010
INDUSTRIAL COMMISSION

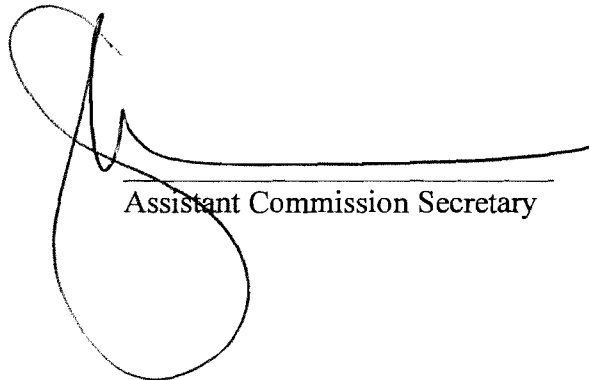
CERTIFICATE OF SERVICE

I hereby certify that on the 1 day of June 2010 a true and correct copy of the **Claimant's request for appeal to the Supreme Court, filed May 28, 2010**, was served by regular United States mail upon the following:

HADDONS FENCING INC
C/O ADVANTAGE EMPLOYMENT SOLUTIONS
630 S WOODRUFF
IDAHO FALLS ID 83401

DEPUTY ATTORNEY GENERAL
IDAHO DEPARTMENT OF LABOR
STATE HOUSE MAIL
317 W MAIN STREET
BOISE ID 83735

mcs



Assistant Commission Secretary

Cc: DENNIS B CURRENT
898 W CENTER ST
BLACKFOOT ID 83221

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For Domestic and International Use



From Dennis Current

TO Idaho Industrial Comm.
P.O. Box 83720
Boise, Idaho 83720-0041

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09

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FILE NO.=832

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001	OK		12083327558	004/004	00:01:12

-PARCEL EXPRESS -

208 785 2655- *****

2010 JUN -1 PM 2:13 RECEIVED INDUSTRIAL COMMISSION

TO: Idaho Industrial Commission
P.O. Box 83720
Boise, Idaho 83720-0041

From: Dennis B. Current
898 W. Center St.
Blackfoot, Idaho 83221

Appeal to Supreme Court
Written Request for ~~Reconsideration~~

IDOL # 0132-2010 order denying Reconsideration
filed April 29 2010. I seek only the Truth Nothing But the Truth
the whole Truth in this matter

Pro Se
DBL

The examiner granted continuance for employer of initial phone hearing. I had made arrangements for my witnesses but due to postponement of phone hearing I was unable to rearrange for Robin with IDOL. Examiner made no effort to contact Robin. Examiner stated that we (each of the parties) would be allowed witnesses. She lied. By not allowing testimony to be heard Examiner Errored. I was not able or given full opportunity to present my case. Question ??? How was Examiner correct in not allowing testimony or the relevance of testimony without hearing said testimony? Did she have a crystal ball? I would argue that the testimony not allowed to be heard had relevance and by not allowing that witness she the Examiner denied me full opportunity to present my case. I Dennis Current also request service of all Decisions to Dennis Current 898 W. Center St. Blackfoot Idaho 83221 so that a timely response can be made. Also I would request a transcript of the Phone hearings Both of them. Please mail all orders and Decisions and any correspondence to Dennis Current 898 W. Center St. Blackfoot, Idaho 83221

Thank you Dennis B Current

b1

TO: Idaho Industrial Commission
P.O. Box 83720
Boise, Idaho 83720-0041

From: Dennis B. Current
898 W. Center St.
Blackfoot, Idaho 83221

Written Request for ~~Reconsideration or~~
appeal to the Supreme Court also I am ~~Prose~~
IDOL # 0132-2010 order denying Reconsideration ~~Prose~~
filed April 29 2010. I seek only the Truth Nothing But the Truth
the whole Truth in this matter

The examiner granted continuence for employer of initial
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to Dennis Current 898 W. Center St. Blackfoot, Idaho 83221

Thank you Dennis B Current

2) TO: Idaho Industrial Commission

I was wrongly deniged a witness

The Commission erred in its decision.

I had made arrangements with both of my witnesses but due to a postponement granted by Janet Hardy Rearangments could not be made with Robin and Janet Hardy refused to even try to contact her even though there was an extension number for her and she worked for the Dept. of Labor and could be reached

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As to good cause I was not permitted My Witness to confirm my quit due to illness caused by welding galvanized pipe in the manufacture of the gates in my position as Shop foreman. This was omitted by Gary Townsend from our interview.

As to I did not make a false statement

I stated that I quit due to lack of work, causing financial hardship from reduced hours.

As to not being allowed Robin as a witness by Janet Hardy would show that Gary Townsend omitted facts that showed I quit also from illness caused to be confirmed by Robin also not mentioned was the paying in cash by Haddon's for hours of overtime.

Arrangements had been made with Robin and Bridgett Kerley but because a ~~request~~ postponement granted by Janet Hardy Robin could not be rearranged
 (at Dennis Curran's arrangement)

④
Fax (208) 332-7558

TO: Industrial Commission
State of Idaho

From: Dennis B. Current
898 W. Center St.
Blackfoot Idaho
83221

Request Reconsideration
on the grounds That I
was not granted a witness
that I had Requested in my
Phone hearing and the examiner
made no attempt to contact the
witness even though the witness was
employed with the state of Idaho and could
be reached. The Examiner granted continuence
for employer after I had made arrangements for
both witness to testify on original date.

15 Dennis B. Current

6e

D. Current
898 W. Center St
Blackfoot Idaho
83221



7008 2810 0001 8674 2217



01 JUN 2010 PM 1



Industrial Commission
PO Box 83720-0091
Boise, Idaho 83720

\$5.54
00028034-05



To: Dennis Current Docket 0132-2 **From:** Faler Law Office, PLLC

Fax: 112083327558 **Pages:** 7

Re: **Date:** Jun 22, 2010

Urgent For Review Please Comment Please Reply For Information

• Comments:

FILED
JUN 22 2010
INDUSTRIAL COMMISSION

67

Attached are the Notice of Appearance and the Notice of Appeal.

William D. Faler

William D. Faler, Esq.
Idaho State Bar No. 1464
FALER LAW OFFICE, P.L.L.C.
520 D Street
Idaho Falls, Idaho 83402
Mailing Address:
P. O. Box 51158
Idaho Falls, Idaho 83405
Telephone: (208) 523-5112
Facsimile: (877) 530-1868

Attorneys for Claimant

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

DENNIS B. CURRENT

Claimant,

vs.

HADDONS FENCING INC., AND
ADVANTAGE EMPLOYMENT
SOLUTIONS,

Employers.

IDOL # 0132-2010

NOTICE OF APPEARANCE

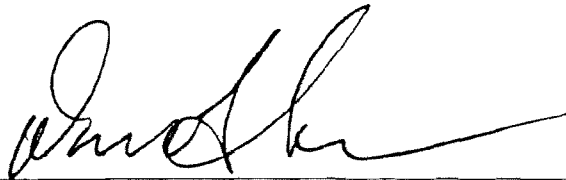
FILED

JUN 22 2010

INDUSTRIAL COMMISSION

NOTICE IS HEREBY GIVEN that William D. Faler of Faler Law Office, P.L.L.C., hereby enters an appearance on behalf of the Claimant, Dennis B. Current, in the above-entitled action.

DATED this 21st day of June, 2010.



William D. Faler, Esq.
Faler Law Office, P.L.L.C.

69

CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, resident of and with my office in Idaho Falls, Idaho; that I served a copy of the following described pleading or document on the attorneys listed below by hand delivering, by mailing or by facsimile, with the correct postage thereon, a true and correct copy thereof on this _____ day of June, 2010.

DOCUMENT SERVED: **Notice of Appearance**

SERVED UPON:

Haddons Fencing INC,
C/O Advantage Employments Solutions
630 S. Woodruff
Idaho Falls, ID 83401

U. S. Mail
 Hand Delivery
 Facsimile
 Other _____

Deputy Attorney General,
Idaho Department of Labor
Statehouse Mail
317 W. Main Street
Boise, Id 83735

U. S. Mail
 Hand Delivery
 Facsimile
 Other _____

Ward Stur
06-21-2010

William D. Faler, Esq.
Idaho State Bar No. 1464
FALER LAW OFFICE, P.L.L.C.
P. O. Box 51158
520 D Street
Idaho Falls, Idaho 83405
Telephone: (208) 523-5112
Telefax: (877) 530-1868
Email: wfaler@falerlaw.com
Attorneys for Appellant

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

DENNIS B. CURRENT,
Claimant-Appellant,
V.

IDOL # 0132-2010

NOTICE OF APPEAL

HADDONS FENCING INC.

and

ADVANTAGE EMPLOYMENT
SOLUTIONS,
Employers- Respondents,

and

IDAHO DEPARTMENT OF LABOR

FILED
JUN 22 2010
INDUSTRIAL COMMISSION

TO: THE ABOVE NAMED RESPONDENTS HADDONS FENCING INC., and
ADVANTAGE EMPLOYMENT SOLUTIONS, AND IDAHO DEPARTMENT OF LABOR.

NOTICE IS HEREBY GIVEN THAT:

1. The above named Claimant-Appellant, Dennis Current, appeals against the above-named respondents and the Idaho Department of Labor, to the Idaho Supreme Court from

1 | NOTICE OF APPEAL

the Order Denying Reconsideration, dated April 29, 2010, and the Decision and Order, dated January 29, 2010, in the above referenced matter.

2. That Claimant-Appellant has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to I.A.R Rule 11(d).

3. The following is a preliminary statement of the issues on appeal which Claimant-Appellant intends to assert in the appeal:

(a) Whether Claimant-appellant voluntarily quit his employment with Employers-Respondents.

(b) Whether the reduction of hours of work available to Claimant-Appellant such that Claimant-Appellant was working significantly less than 40 hours per week, constituted a lay off such that Claimant-Appellant was entitled to seek other work and claim unemployment benefits.

(c) Whether Claimant-Appellant made an intentionally false statement in his application for unemployment compensation, such that he should be denied unemployment benefits.

4. No order been entered sealing all or any portion of the record.

5. A reporter's transcript requested of the following:

(a) All hearings in Claimants Request for unemployment compensation.

6. The appellant requests the following documents to be included in the clerk's (agency's) record in addition to those automatically included under Rule 28, I.A.R.: none

7. I certify:

(a) That a copy of this notice of appeal has been served on the Industrial Commission and Idaho Department of Employment for purposes of obtaining a transcript, inasmuch as the hearings were recorded by such agencies.


(b) That I am informed by Claimant-Appellant that the clerk of the Industrial Commission has been paid the estimated fee for preparation of the reporter's transcript.

(c) That I am informed by the Claimant-Appellant that the initial \$50.00 fee for preparation of the clerk's or agency's record has been paid.

(d) That I am informed by the Claimant-Appellant that the appellate filing fee has been paid.

(e) That service has been made upon all parties required to be served pursuant to Rule 20 (and the attorney general of Idaho pursuant to § 67-1401(1), Idaho Code).

DATED: 21st day of June, 2010


William D. Faler

June 21, 2010

Idaho Industrial Commission
Appeals
700 S. Clearwater Lane
Boise, ID 83712.

RE: Notice of Appearance
RE: Notice of Appeal of Dennis B. Current

Dear Sirs:

Attached are the following:

1. Notice of Appearance for Dennis B. Current
2. Notice of Appeal for Dennis B. Current

I am informed by Mr. Current that the filing fees have already been tendered.

Sincerely,



William D. Faler

William D. Faler, Esq.
Idaho State Bar No. 1464
FALER LAW OFFICE, P.L.L.C.
520 D Street
Idaho Falls, Idaho 83402
Mailing Address:
P. O. Box 51158
Idaho Falls, Idaho 83405
Telephone: (208) 523-5112
Facsimile: (877) 530-1868

2010 JUN 22 1 P 1:19
RECEIVED
INDUSTRIAL COMMISSION

Attorneys for Claimant

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

DENNIS B. CURRENT

Claimant,

vs.

HADDONS FENCING INC., AND
ADVANTAGE EMPLOYMENT
SOLUTIONS,

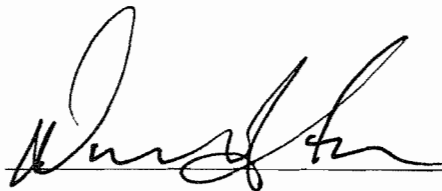
Employers.

IDOL # 0132-2010

NOTICE OF APPEARANCE

NOTICE IS HEREBY GIVEN that William D. Faler of Faler Law Office, P.L.L.C., hereby enters an appearance on behalf of the Claimant, Dennis B. Current, in the above-entitled action.

DATED this 21st day of June, 2010.



William D. Faler, Esq.
Faler Law Office, P.L.L.C.

CERTIFICATE OF SERVICE

I hereby certify that I am a duly licensed attorney in the State of Idaho, resident of and with my office in Idaho Falls, Idaho; that I served a copy of the following described pleading or document on the attorneys listed below by hand delivering, by mailing or by facsimile, with the correct postage thereon, a true and correct copy thereof on this 21st day of June, 2010.

DOCUMENT SERVED: **Notice of Appearance**

SERVED UPON:

Haddons Fencing INC,
C/O Advantage Employments Solutions
630 S. Woodruff
Idaho Falls, ID 83401

U. S. Mail
 Hand Delivery
 Facsimile
 Other _____

Deputy Attorney General,
Idaho Department of Labor
Statehouse Mail
317 W. Main Street
Boise, Id 83735

U. S. Mail
 Hand Delivery
 Facsimile
 Other _____



the Order Denying Reconsideration, dated April 29, 2010, and the Decision and Order, dated January 29, 2010, in the above referenced matter.

2. That Claimant-Appellant has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to I.A.R Rule 11(d).

3. The following is a preliminary statement of the issues on appeal which Claimant-Appellant intends to assert in the appeal:

(a) Whether Claimant-appellant voluntarily quit his employment with Employers-Respondents.

(b) Whether the reduction of hours of work available to Claimant-Appellant such that Claimant-Appellant was working significantly less than 40 hours per week, constituted a lay off such that Claimant-Appellant was entitled to seek other work and claim unemployment benefits.

(c) Whether Claimant-Appellant made an intentionally false statement in his application for unemployment compensation, such that he should be denied unemployment benefits.

4. No order been entered sealing all or any portion of the record.

5. A reporter's transcript requested of the following:

(a) All hearings in Claimants Request for unemployment compensation.

6. The appellant requests the following documents to be included in the clerk's (agency's) record in addition to those automatically included under Rule 28, I.A.R.: none

7. I certify:

(a) That a copy of this notice of appeal has been served on the Industrial Commission and Idaho Department of Employment for purposes of obtaining a transcript, inasmuch as the hearings were recorded by such agencies.

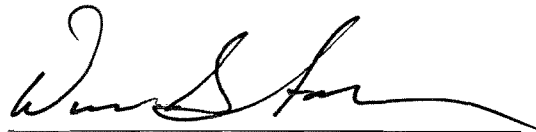
(b) That I am informed by Claimant-Appellant that the clerk of the Industrial Commission has been paid the estimated fee for preparation of the reporter's transcript.

(c) That I am informed by the Claimant-Appellant that the initial \$50.00 fee for preparation of the clerk's or agency's record has been paid.

(d) That I am informed by the Claimant-Appellant that the appellate filing fee has been paid.

(e) That service has been made upon all parties required to be served pursuant to Rule 20 (and the attorney general of Idaho pursuant to § 67-1401(1), Idaho Code).

DATED: 21st day of June, 2010

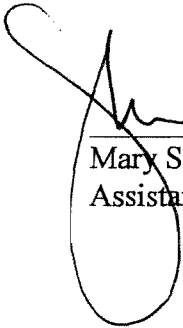



William D. Faler

CERTIFICATION OF APPEARANCE AND APPEAL

I, Mary Schoeler, the undersigned Assistant Commission Secretary of the Industrial Commission of the State of Idaho, hereby CERTIFY that the foregoing is a true and correct photocopy of the Notice of Appearance filed June 22, 2010, and Notice of Appeal (in proper form), filed June 22, 2010 and the whole thereof, for unemployment appeal of Dennis Current, Supreme Court docket number 37740.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said Commission this 22 day of June, 2010.


Mary Schoeler
Assistant Commission Secretary



The seal is circular with a dotted border. The text 'INDUSTRIAL COMMISSION' is written along the top inner edge, and 'STATE OF IDAHO' is written along the bottom inner edge. Two stars are positioned on the left and right sides of the inner circle. The word 'SEAL' is printed vertically in the center of the seal.

2010 JUN 22 A 10:32
RECEIVED
INDUSTRIAL COMMISSION

KEVIN C. PETERSON
Attorney at Law
154 S. Oak PO Box 1387
Blackfoot, Idaho 83221
Telephone: (208) 785-1603
Fax: (208) 782-0348

To: **ATTN: Industrial Commission**

Fax #: **1-208-334-2321**

From: **Kevin C. Peterson/ Attorney at Law**

Date: **June 22, 2010**

Subject: **Dennis Current**

Pages: **4** INCLUDING THE COVERSHEET

NOTES:

--	--

The pages comprising this facsimile transmission contain confidential information from Kevin C. Peterson. This information is intended solely for use by the individual entity named as the recipient hereof. If you are not the intended recipient be aware that any disclosure, copying, distribution, or use of the contents of this transmission is prohibited. If you have received this transmission by error, please notify us by telephone immediately so we may arrange to retrieve this transmission at no cost to you.

83

good cause would have been shown
in the testimony of Robin Dae to
omission of sickness caused from welding gas pipe
by Gary Townsend Janet Harding would not
allow said evidence to be presented

Claimant worked as a shop Foreman welding
gates for employer Claimant quit due to
illness and because he was not receiving full time
work hours 20 hours a week was worth
the illness caused from welding the gas pipe

Claimant quit for health reasons and full time
employment the first witness was identified
as Robin and an extension number was given to
Janet Hardy Arrangements had been made for
Robin to testify but because of a continuance
granted by Janet Hardy claimant was not able to
rearrange with Robin The appeals Examiner
concluded that Robins testimony was not relevant
with out hearing or allowing testimony to be given

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INDUSTRIAL COMMISSION
2010 JUN 22 10:32 AM

The claimant was able to rearrange for the testimony of Ms Kerley and gave Janet Hardy her name and extension. Ms Kerley testified that the Claimant never represented to her that he had not quit and that he quit due to lack of work and reduced hours. Claimant was not able to rearrange with Robin for her testimony and he stated that there was relevant evidence that she could ~~not~~ testify to and clearly protested Janet Hardy's determination. Janet Hardy erred in her determination about the testimony as the Claimant was not able to have to omissions of his statement to Gary Townsend about the illness from the welding and the cash payment for over-time hours. Thus Robin's testimony was necessary in the case and the Claimant was hampered in presenting his case by virtue of substantiating witness.

2) The claimant asked for the Commission to be sent back to the appeals examiner so that he could have the opportunity to present evidence ~~and~~ supporting the quit due to lack of work and health issues caused by his employment as a welder for Haddon's The Industrial Commission erred in not remanding the case back to appeals there by Claimant was not given a full opportunity to present his case as he was not allowed a crucial witness and testimony. The Commission has reviewed only part of the facts in the Claimant case because testimony was not allowed by Janet Hardy so it was not offered as evidence or fact thereby not giving claimant full opportunity to present his case.

Dennis B Current
April 25 2010

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

DENNIS B. CURRENT,)
Claimant,)
vs.)
HADDONS FENCING INC.,)
and)
ADVANTAGE EMPLOYMENT)
SOLUTIONS,)
Employers,)
and)
IDAHO DEPARTMENT OF LABOR.)

IDOL # 0132-2010

FILED

JUN 23 2010

INDUSTRIAL COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on the 23 day of June 2010 a true and correct copy of the **Claimant's correspondence received from attorney Kevin C. Peterson, filed June 22, 2010**, was served by regular United States mail upon the following:

HADDONS FENCING INC
C/O ADVANTAGE EMPLOYMENT
SOLUTIONS
630 S WOODRUFF
IDAHO FALLS ID 83401

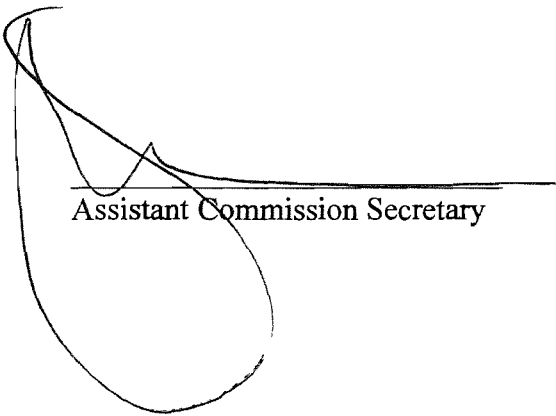
IDAHO SUPREME COURT
STATEHOUSE MAIL
PO BOX 83720
BOISE IDAHO 83720-0101

DEPUTY ATTORNEY GENERAL
IDAHO DEPARTMENT OF LABOR
STATE HOUSE MAIL
317 W MAIN STREET
BOISE ID 83735

WILLIAM D. FALER
520 D. STREET
IDAHO FALLS ID 83402

mcs

cc: KEVIN C. PETERSON
154 S. OAK
BLACKFOOT ID 83221


Assistant Commission Secretary

Office Of
KEVIN C. PETERSON
Attorney at Law

154 S. Oak
P.O. Box 1387
Blackfoot, ID 83221
Telephone: (208) 785-1603
Facsimile: (208) 782-0348

June 29, 2010

State of Idaho Industrial Commission
100 S. Clearwater Ln.
Boise, ID 83720-0041


Re: IDOL # 0132-2010

Dear Industrial Commission:

I received the Notice of Appeal on the above case however, in light of a conflict I will not be representing Mr. Dennis Current.

I assume he is currently seeking new counsel. If you have any questions please advise.

Sincerely,



Kevin C. Peterson
Attorney at Law
KCP/cb

160 mg 10/10/10
150:11 v 9-7

Kevin C. Peterson
Attorney at Law
PO Box 1387
Blackfoot, ID 83221

Return Service Requested

POCATELLO ID 832

01 JUL 2010 PM 1 L



FILED
JUL - 6 2010
INDUSTRIAL COMMISSION

State of Idaho Industrial Commission
100 S. Clearwater Ln.
Boise, ID 83720-0041

83720+0041



837

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

DENNIS B. CURRENT,)
Claimant,)
vs.)
HADDONS FENCING INC.,)
and)
ADVANTAGE EMPLOYMENT)
SOLUTIONS,)
Employers,)
and)
IDAHO DEPARTMENT OF LABOR.)
_____)

IDOL # 0132-2010

FILED

JUL 07 2010

INDUSTRIAL COMMISSION

CERTIFICATE OF SERVICE

I hereby certify that on the 7 day of July, 2010 a true and correct copy of **Claimant's Attorney's correspondence of withdrawal of representation, filed July 1, 2010** was served by regular United States mail upon the following:

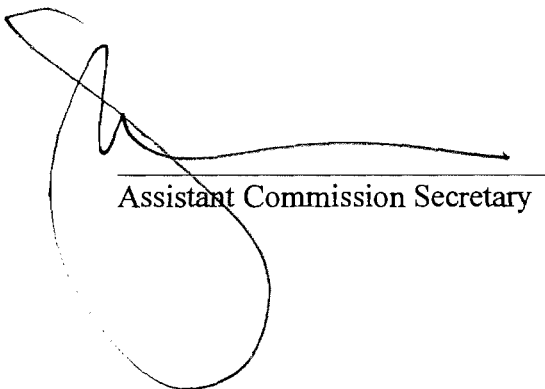
HADDONS FENCING INC
C/O ADVANTAGE EMPLOYMENT
SOLUTIONS
630 S WOODRUFF
IDAHO FALLS ID 83401

IDAHO SUPREME COURT
STATEHOUSE MAIL
PO BOX 83720
BOISE IDAHO 83720-0101

DEPUTY ATTORNEY GENERAL
IDAHO DEPARTMENT OF LABOR
STATE HOUSE MAIL
317 W MAIN STREET
BOISE ID 83735

WILLIAM D. FALER
520 D. STREET
IDAHO FALLS ID 83402

mcs



Assistant Commission Secretary

Cc:
KEVIN C. PETERSON
154 S. OAK
BLACKFOOT ID 83221

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

DENNIS B CURRENT,)
SSN: [REDACTED])
Claimant,)
vs.)
HADDONS FENCING INC,)
and)
ADVANTAGE EMPLOYMENT)
SOLUTIONS,)
Employers,)
and)
IDAHO DEPARTMENT OF LABOR.)

IDOL # 0132-2010
ORDER DISMISSING
FURTHER RECONSIDERATION

FILED
JUL 09 2010
INDUSTRIAL COMMISSION

On January 29, 2010, the Commission issued a Decision and Order finding: 1) Claimant voluntarily quit his job with Employer without good cause in connection with his employment, 2) Employer's account is not chargeable for experience rating purposes; and 3) Claimant willfully misstated a material fact for the purpose of obtaining unemployment insurance benefits. On February 18, 2010, Claimant filed a timely request that the Commission reconsider its January 29, 2010 Decision and Order. The Commission issued an Order Denying Reconsideration on April 29, 2010.

On May 24, 2010, Claimant's attorney of record, at that time, submitted a document from Claimant along with a cover sheet. The cover sheet noted that the document was an appeal of the Commission's Order to Deny Reconsideration. The document authored by Claimant argues the merits of Claimant's eligibility for unemployment insurance and is silent regarding the express reason for submitting the document. The Commission served the document as a second

request for reconsideration. On May 28, 2010, Claimant, appearing *pro se*, submitted a document of appeal to the Commission requesting an appeal to the Idaho Supreme Court.

The Commission construes Claimant's May 24, 2010 submission of documents as a second request for reconsideration. Claimant previously requested a reconsideration of the Commission's Decision and Order on February 18, 2010. The Commission denied that request on April 29, 2010. Although Idaho Code § 72-1368(7) provides a party with the ability to seek the reconsideration of a Commission decision, there are no statutory provisions allowing for the additional reconsideration of a decision once the Commission has issued an order on the initial request. Accordingly, Claimant's request for further reconsideration is hereby, DISMISSED.

The Commission has filed Claimant's appeal of the Commission's Decision and Order to the Idaho Supreme Court on his behalf.

DATED this 9 day of July 2010

INDUSTRIAL COMMISSION

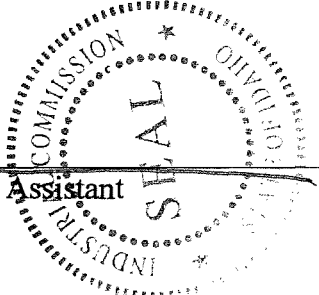
R.D. Maynard
R.D. Maynard, Chairman

Thomas E. Limbaugh
Thomas E. Limbaugh, Commissioner

Thomas P. Baskin
Thomas P. Baskin, Commissioner

ATTEST:

[Signature]
Administrative Assistant

The seal of the Industrial Commission of Idaho is circular. It features the words "INDUSTRIAL COMMISSION" around the top inner edge and "OF IDAHO" around the bottom inner edge. In the center, the word "SEAL" is written vertically. There are two small stars on either side of the word "SEAL".

CERTIFICATE OF SERVICE

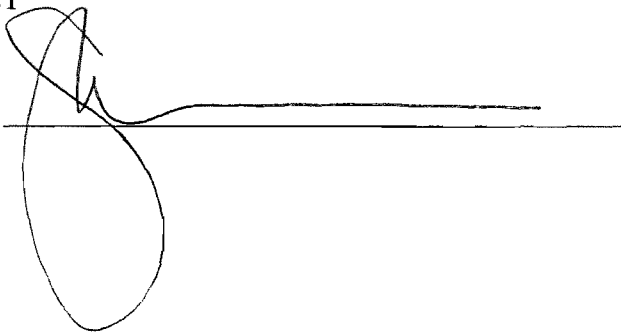
I hereby certify that on the 9 day of July 2010, a true and correct copy of **Order Dismissing Further Reconsideration** was served by regular United States mail upon each of the following:

HADDONS FENCING INC
C/O ADVANTAGE EMPLOYMENT SOLUTIONS
630 S WOODRUFF
IDAHO FALLS ID 83401

DENNIS B CURRENT
898 W CENTER ST
BLACKFOOT ID 83221

DEPUTY ATTORNEY GENERAL
IDAHO DEPARTMENT OF LABOR
STATE HOUSE MAIL
317 W MAIN STREET
BOISE ID 83735

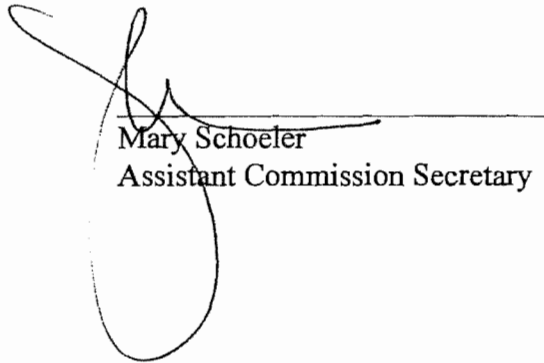
mcs

A handwritten signature in black ink is written over a horizontal line. The signature is stylized and appears to be 'mcs'. The line extends to the right across the page.

CERTIFICATION

I, Mary Schoeler, the undersigned Assistant Commission Secretary of the Industrial Commission of the State of Idaho, hereby CERTIFY that the foregoing is a true and correct photocopy of the Notice of Appeal filed May 28, 2010; Decision and Order, filed January 29, 2010; and Order Denying Reconsideration, filed April 29, 2010; and the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said Commission this 1 day of June, 2010.



Mary Schoeler
Assistant Commission Secretary

RECEIVED
IDAHO SUPREME COURT
COURT OF APPEALS

BEFORE THE SUPREME COURT OF THE STATE OF IDAHO

2010 JUN -2 AM 9: 28

DENNIS B. CURRENT,)
 Claimant,)
)
 vs.)
)
 HADDONS FENCING INC.,)
)
 and)
)
 ADVANTAGE EMPLOYMENT)
 SOLUTIONS,)
 Employers,)
)
 and)
)
 IDAHO DEPARTMENT OF LABOR.)
 _____)

CERTIFICATE OF APPEAL

Supreme Court No. 37740

Appeal From: Industrial Commission,
 R.D. Maynard, Chairman, presiding.

Case Number: IDOL # 0132-2010

Order Appealed from: Order Denying Reconsideration, Filed April 29, 2010
 and Decision and Order, filed January 29, 2010

Representative for Claimant: DENNIS B CURRENT, Pro Se
 898 W Center St
 Blackfoot ID 83221

Representative for Employers: Haddons Fencing Inc
 C/O Advantage Employment Solutions
 630 S Woodruff
 Idaho Falls ID 83401

Representative for IDOL: Tracey K. Rolfsen
 Deputy Attorney General
 317 W Main St
 Boise Id 83735

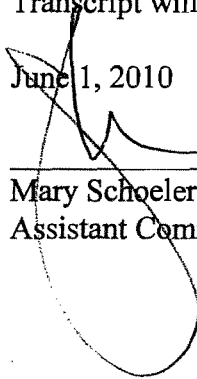
FILED - ORIGINAL

JUN - 2 2010

Supreme Court _____ Court of Appeals _____
 Entered on ATS by DIS

ac

Appealed By: Dennis B. Current/Appellant
Appealed Against: Haddon's Fencing Inc./Respondent
and
Idaho Department of Labor/Respondent
Notice of Appeal Filed: May 28, 2010
Appellate Fee Paid: None
Transcript: Transcript will be ordered
Dated: June 1, 2010



Mary Schoeler
Assistant Commission Secretary

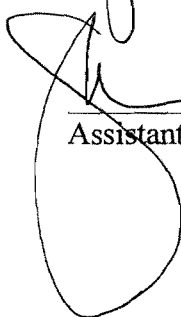


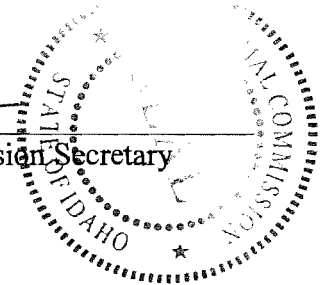
CERTIFICATION OF RECORD

I, Mary Schoeler, the undersigned Assistant Commission Secretary of the Industrial Commission, do hereby certify that the foregoing record contains true and correct copies of all pleadings, documents, and papers designated to be included in the Agency's Record on appeal by Rule 28(3) of the Idaho Appellate Rules and by the Notice of Appeal, pursuant to the provisions of Rule 28(b).

I further certify that all exhibits admitted in this proceeding are correctly listed in the List of Exhibits (i). Said exhibits will be lodged with the Supreme Court after the Record is settled.

DATED this 16 day of July, 2010.


Assistant Commission Secretary



BEFORE THE SUPREME COURT OF THE STATE OF IDAHO

DENNIS B. CURRENT,)
Claimant,)
vs.)
HADDONS FENCING INC.,)
and)
ADVANTAGE EMPLOYMENT)
SOLUTIONS,)
Employers,)
and)
IDAHO DEPARTMENT OF LABOR.)

SUPREME COURT # 37740

NOTICE OF COMPLETION

TO: STEPHEN W. KENYON, Clerk of the Courts; and
William D. Faler, Claimant/Appellant; and
and
Tracey K. Rolfsen, Idaho Department of Labor, Respondent.

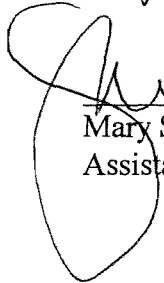
YOU ARE HEREBY NOTIFIED that the Agency's Record was completed on this date and,
pursuant to Rule 24(a) and Rule 27(a), Idaho Appellate Rules, copies of the same have been served
by regular U.S. mail upon each of the following:

For Claimant/Appellant:
William D Faler
520 D Street
Idaho Falls, ID 83402

For Respondent:
Tracey K Rolfsen
Deputy Attorney General
Idaho Department of Labor
317 W. Main St.
Boise, Idaho 83735

YOU ARE FURTHER NOTIFIED that pursuant to Rule 29(a), Idaho Appellate Rules, all parties have twenty-eight days from the date of this Notice in which to file objections to the Agency's Record or Reporter's Transcript, including requests for corrections, additions or deletions. In the event no objections to the Agency's Record or Reporter's Transcript are filed within the twenty-eight day period, the Agency's Record and Reporter's Transcript shall be deemed settled.

DATED this 16 day of July, 2010.



Mary Schoeler
Assistant Commission Secretary

