

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. F401297

MATTHEW BLAKEMORE, Employee

CLAIMANT

WAL-MART STORES, INC., Employer

RESPONDENT

OPINION FILED FEBRUARY 4, 2005

Hearing before ADMINISTRATIVE LAW JUDGE GREGORY K. STEWART in Springdale, Washington County, Arkansas.

Claimant represented by EVELYN BROOKS, Attorney, Fayetteville, Arkansas, although not appearing at hearing.

Respondents represented by CURTIS L. NEBBEN, Attorney, Fayetteville, Arkansas.

STATEMENT OF THE CASE

This comes on for review following a hearing on the respondent's motion to dismiss for lack of prosecution pursuant to Commission Rule 13.

Claimant filed an AR-C on February 24, 2004, and a pre-hearing conference was conducted on March 31, 2004. At that time, the case was scheduled for a hearing on May 19, 2004. At claimant's request the case was removed from the hearing docket. Claimant has made no further request for a hearing; therefore, respondent filed a motion to dismiss due to claimant's failure to prosecute the matter or request a hearing within six months. A hearing was set on the respondent's motion to dismiss for January 26, 2005. Prior to that hearing, claimant's attorney, Evelyn Brooks, indicated that claimant would not attend the hearing to object to the respondent's motion.

FINDINGS OF FACT & CONCLUSIONS OF LAW

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. Claimant has failed to prosecute his claim.

DISCUSSION

Based upon the evidence presented, I find that claimant has failed and/or refused to prosecute his claim for compensation benefits. Prior to the scheduled hearing on respondent's motion, claimant's attorney indicated that claimant would not appear to object to the respondent's motion. Based upon the foregoing, I find that respondent's motion to dismiss this claim should be and hereby is granted based upon claimant's failure to pursue this claim. Therefore, this claim is hereby dismissed without prejudice.

IT IS SO ORDERED.

GREGORY K. STEWART
ADMINISTRATIVE LAW JUDGE