

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. F409619

FRANK MURPHY, Employee

CLAIMANT

WAL-MART STORES, INC., Employer

RESPONDENT

OPINION FILED MAY 17, 2005

Hearing before ADMINISTRATIVE LAW JUDGE GREGORY K. STEWART in Fort Smith, Sebastian County, Arkansas.

Claimant failing to appear.

Respondents represented by DALE W. BROWN, Attorney, Fayetteville, Arkansas.

ORDER

_____ This case comes on for review following a hearing on respondent's motion to dismiss this claim pursuant to Rule 13 for failure to prosecute.

Respondent by letter dated March 16, 2005 requested that this case be dismissed without prejudice pursuant to Rule 13 for failure to prosecute. The respondent noted that claimant had filed an AR-C on September 15, 2004, but had taken no further action to prosecute the claim. A hearing was set on the respondent's motion to dismiss for May 2, 2005. Notice of the hearing was sent to the claimant by certified mail and the certified mail receipt indicates that claimant received the notice on March 31, 2005. At the time of the scheduled hearing claimant did not appear.

After my consideration of the respondent's motion, the claimant's failure to appear at the scheduled hearing, and all other matters properly before the Commission, I find that respondent's motion to dismiss this claim without prejudice pursuant to Commission Rule 13 for failure to prosecute should be and hereby is granted.

IT IS SO ORDERED.

GREGORY K. STEWART
ADMINISTRATIVE LAW JUDGE