

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM F305472**

**PERFECTO RAMIREZ,  
EMPLOYEE**

**CLAIMANT**

**HALL MANUFACTURING, INC.,  
EMPLOYER**

**RESPONDENT**

**CINCINNATI INDEMNITY CO.,  
INSURANCE CARRIER**

**RESPONDENT**

**OPINION FILED SEPTEMBER 6, 2005.**

Pursuant to a hearing conducted June 30, 2005, before Administrative Law Judge Richard B. Calaway in Little Rock, Pulaski County, Arkansas, with

Mr. Kenneth A. Olsen, Attorney at Law, Little Rock, Arkansas, appearing for the respondents and

The claimant, proceeding pro se, failing to appear.

**STATEMENT OF THE CASE**

This was a hearing to consider the motion to dismiss filed on behalf of the respondents in a letter dated May 12, 2005. The claimant did not respond to the motion..

A review of the file shows that the claimant reported that on May 1, 2003, he injured his lower back while installing a chain guard on a mower during his employment for the respondent. The employer initially accepted the injury as compensable and paid for medical treatment approximately from May 6 through May 9, 2003. On May 28, the Commission received from the respondents a First Report of Injury and notification that the claim was then being controverted because an injury could not be established by medical evidence supported by objective findings. The claimant was notified by the Commission of the intention of the respondents to controvert the claim and he sought the advice of the Legal Advisor Division.

On September 2, 2003, the Commission received notice that the claimant was represented by Steven R. McNeely, Attorney at Law, who filed a claim form asking for temporary total disability benefits, medical expenses, and an attorney's fee.

The respondents continued to controvert the claim and the hearing was requested. After a telephone prehearing conference on April 19, 2004, a hearing was scheduled for June 2, 2004, to consider the issue of compensability. At that time, counsel indicated that the claimant had been examined by several physicians, including Dr. William Ackerman and Dr. Scott Schlesinger. This hearing, however, was cancelled at the request of the respondents.

An additional telephone prehearing conference was conducted November 9, 2004, and the parties indicated that the depositions of Dr. Ackerman and Dr. Schlesinger were scheduled for December and January and that the Second Injury Fund might be joined as a party after the depositions had been completed. Claimant's counsel was requested to submit an additional hearing request at the end of November, so that a prompt prehearing conference could be arranged to schedule a hearing as soon as possible following the depositions and the joinder of the Second Injury Fund.

On April 29, 2005, claimant's counsel filed a motion to withdraw as Attorney of Record. The respondent's letter requesting a dismissal was received by the Commission May 13, 2005. In an Order dated May 18, 2005, the unanimous Commission entered an Order granting the motion of claimant's counsel to be relieved as Attorney of Record. Copies of the letter requesting that the claim be dismissed and copies of the Notice of the Hearing which was scheduled for June 30, 2005, were sent to the claimant at his last known address by Certified and Regular Mail. At the hearing on June 30, 2005, Estela Mendoza of Arkansas Spanish Interpreters and Translators, Inc., was

present to assist the claimant. However, he failed to appear and failed to respond to the motion and the notice of the hearing.

Accordingly, based upon a review of the record and the failure of the claimant to respond to the motion and his failure to appear at the hearing, it appears that the motion should be, and it is hereby, granted, and this claim is hereby dismissed without prejudice.

**IT IS SO ORDERED.**

---

RICHARD B. CALAWAY  
Administrative Law Judge