

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. F409015**

<b>RONNIE L. RILEY, JR., EMPLOYEE</b>	<b>CLAIMANT</b>
<b>RAIL UNLIMITED, EMPLOYER</b>	<b>RESPONDENT</b>
<b>NATIONAL AMERICAN INS. CO., CARRIER</b>	<b>RESPONDENT</b>

**OPINION FILED NOVEMBER 28, 2005**

Hearing before ADMINISTRATIVE LAW JUDGE ANDREW L. BLOOD, on September 23, 2005, at Marion, Crittenden County, Arkansas.

Claimant represented by the HONORABLE TERRY A. SCOTT, Attorney at Law, Memphis, Tennessee.

Respondents represented by the HONORABLE KENNETH OLSEN, Attorney at Law, Little Rock, Arkansas.

**STATEMENT OF THE CASE**

A hearing was scheduled in the above-styled claim to determine the claimant's entitlement to workers' compensation benefits.

On August 9, 2005, a pre-hearing conference was conducted in this claim, from which a Pre-hearing Order of the same date was filed. The Pre-hearing Order reflects stipulations entered by the parties, the issues to be addressed during the course of the hearing, and the parties contentions relative to the issues. The Pre-hearing Order is herein designated a part of the record as Commission Exhibit #1.

**DISCUSSION**

The claim originated with the filing of a Form 1A-1, First Report of Injury, by respondents on August 30, 2004, regarding a March 7, 2003, accident involving the claimant. After the claimant failed to appear for a scheduled August 10, 2004, deposition in his attorney's office, and later failed to submit a responsive filing to a pre-hearing questionnaire, respondents requested that the claim be dismissed for failure to prosecute pursuant to Rule 13. Notice of the motion to dismiss was mailed to the claimant by certified mail returned receipt requested. Claimant failed to respond to the afore, and on December 7, 2004, an Order of Dismissal was entered.

On or about June 16, 2005, correspondence was received from the claimant requesting additional medical treatment relative to his March 7, 2003, accident. The afore was treated as a filing of a claim for additional workers' compensation benefits.

On August 9, 2005, a pre-hearing conference was conducted in the claim, both parties having submitted responsive filing to the pre-hearing questionnaire. The Pre-hearing Order filed in accordance with the pre-hearing conference recited the date, time and location of the scheduled hearing on the compensability of the claimant's claim. The location of the scheduled September 23, 2005, hearing was the circuit courtroom in the Crittenden County Courthouse, Marion, Arkansas. The evidence reflects that the claimant and his attorney had appeared for the claimant's deposition on August 22, 2005, in the Quorum courtroom which was also located in the Crittenden County Courthouse.

At the time designated for the scheduled September 23, 2005, hearing the docket was sounded. Neither the claimant or his attorney appeared in accordance with the Pre-hearing Order. The motion of the respondents to dismiss the claim was taken under advisement.

Claimant did contact the Arkansas Workers' Compensation Commission at or after 12:00 P.M. on September 23, 2005, to relay that his attorney was supposed to have picked him up in route to the hearing, however had failed to appear.

Efforts to contact both the claimant and his attorney by telephone and certified mail subsequent to the scheduled September 23, 2005, hearing, have been unsuccessful. The claimant was no longer at the telephone number or address contained in the Commission's file, nor was a forwarding address or telephone number provided. On September 29, 2005, a certified letter, return receipt requested, was sent to the claimant's attorney of record, and received on October 3, 2005. To date a response has not been received from the claimant or his attorney of record.

After a thorough consideration of all of the evidence in this record, it is found that the motion of the respondents to dismiss this claim for want of prosecution should be granted in that the claimant has failed to appear and pursue his claim for workers' compensation benefits growing out of the March 7, 2003, accident. It is therefore ordered that the claimant's claim for workers' compensation benefits growing out of the accident of March 7, 2003, is herein dismissed without prejudice, pursuant to Rule 13 of the Arkansas Workers' Compensation Commission.

**IT IS SO ORDERED.**

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**Andrew L. Blood, Administrative Law Judge**