

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F408550

IMOGENE G. WATKINS, EMPLOYEE	CLAIMANT
ARKANSAS COTTON GROWERS ORGANIZATION INC., EMPLOYER	RESPONDENT
AG-COMP SIF CLAIMS, INSURANCE CARRIER/TPA	RESPONDENT

ORDER OF DISMISSAL FILED SEPTEMBER 20, 2005

Hearing before Chief Administrative Law Judge David Greenbaum on September 16, 2005, at Forrest City, St. Francis County, Arkansas.

Claimant failed to appear.

Respondents represented by Mr. Kristopher B. Knox, Friday Eldridge & Clark, Attorneys-at-Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was scheduled for September 16, 2005, to determine whether this claim should be dismissed for want of prosecution pursuant to Ark. Code Ann. §11-9-702 and Commission Rule 13.

This claim concerns an alleged accident and injury occurring on or about August 11, 2004. Respondents have controverted the claim in its entirety, maintaining that the alleged injury did not arise out of and in the course of claimant's employment, specifically, that the claimant was not performing employment services at the time of the alleged injury.

A procedural history of the claim is warranted. After the respondents filed a Commission Form AR-2, controverting the claim, the claimant wrote a letter dated

December 6, 2004, requesting that the Commission review her case. The claim was initially assigned to the Legal Advisor Division for special handling which was apparently unsuccessful. By letter dated March 11, 2005, the claimant requested a hearing on her claim. After attempts to set up a Legal Advisor conference and a mediation conference failed, the claim was assigned to the Adjudication Division. Prehearing Questionnaires were sent to the parties on March 23, 2005. Because the claimant failed and/or refused to respond to the Prehearing Questionnaire, the case was returned to the Commission's general files on April 20, 2005. On or about August 1, 2005, respondents filed a Motion to Dismiss for want of prosecution pursuant to Ark. Code Ann. §11-9-702(d) and Commission Rule 13. A copy of the Motion was sent to the claimant who is *pro se*. In addition, by letter dated August 3, 2005, this Commission advised the claimant that a Motion to Dismiss had been filed in her claim and advised that failure to respond within twenty (20) days could result in the dismissal of her claim. Said notice was sent both Certified Mail, Return Receipt Requested, as well as First-Class Mail and was delivered to the claimant on August 6, 2005, as reflected by Return Receipt of the notice. Thereafter, by notice sent August 25, 2005, a hearing was scheduled on the Motion. Again, the notice of the hearing was sent both Certified Mail, Return Receipt Requested and First-Class Mail. The claimant failed to appear at the scheduled hearing. The subject of the hearing was the Motion to Dismiss the claim. Respondents, again, moved for dismissal of the claim and offered documentary evidence in support of

its Motion.

From a review of the record as a whole, I hereby make the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. The claimant has filed a claim for benefits alleging an August 11, 2004, injury.
3. The claimant has failed to prosecute her claim.
4. Respondents have controverted this claim in its entirety.
5. This claim should be dismissed pursuant to Ark. Code Ann. §11-9-702(a)(4).

DISCUSSION

Rather than conduct a further analysis of the record in this cause, suffice it to say that the procedural history in this claim and the documentary evidence introduced reflects that the claimant has failed and/or refused to prosecute her claim. The claimant as been advised that her failure to respond to prior notices, as well as to appear at the scheduled hearing, would result in the dismissal of her claim. A hearing was scheduled at respondents' request pursuant to a recent decision, *Dillard vs. Benton County Sheriff's Office*, ____ Ark. App. ____, ____ S.W.3d ____ (C.A.04-025, Opinion delivered September 22, 2004).

After full consideration of the facts, issues, and the law, with notice of the hearing having been sent to the claimant, without objection thereto, it is hereby

determined that this claim should be, and it is, hereby dismissed without prejudice pursuant to Ark. Code Ann. §11-9-702(a)(4).

This Order shall not be construed to affect the refiling of this claim if filed within the statutory limits imposed by Arkansas Law.

IT IS SO ORDERED.

DAVID GREENBAUM
Chief Administrative Law Judge