

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. F511236

CHRISTOPHER AUSTIN, EMPLOYEE

CLAIMANT

v.

WAL-MART STORES, INC., EMPLOYER

RESPONDENT

CLAIMS MANAGEMENT, INC., CARRIER

RESPONDENT

OPINION AND ORDER OF DISMISSAL FILED JULY 5, 2006

Now on this 5th day of July, 2006, is presented to this Court by Respondents, Wal-Mart Stores, Inc., and Claims Management, Inc., a Motion to Dismiss for Want of Prosecution, and after consideration of this Motion, the Court finds and orders the following:

1. That the Claimant alleged that he sustained a work-related injury on September 5, 2005;
2. That the Claimant filed an AR-C with the Arkansas Workers' Compensation Commission on October 17, 2005;
3. That the Respondents denied this claim in its entirety;
4. That a Pre-Hearing Order was issued on April 26, 2006, stating that the Hearing originally scheduled for June 23, 2006, had been rescheduled for Thursday, June 29, 2006, at 10:00 a.m., in Helena, Arkansas;
5. That a copy of the Pre-Hearing Order was sent to both the Claimant and his attorney;
6. That the Claimant failed to appear at the Hearing of this matter after receiving the Pre-Hearing Order and several telephone calls by his attorney;
7. That Arkansas Workers' Compensation Commission Rule 13 provides that, "upon meritorious application to the Commission from either party in an action pending before the

Commission, requesting that the claim be dismissed for want of prosecution, the Commission may, upon reasonable notice to all parties, enter an order dismissing the claim for want of prosecution;

8. That the failure to prosecute the claim serves to prejudice the Respondents with unnecessary expenses and costs;

9. That, due to the Claimant's failure to appear at the Hearing, the Respondents requested this claim be Dismissed for Want of Prosecution, pursuant to Commission Rule 13 and Due Process of Law;

10. That, should the Claimant re-file his claim with the Workers' Compensation Commission, he will be assessed costs incurred due to his failure to appear at the Hearing held on June 29, 2006.

WHEREFORE, this Court hereby Orders that this Claim be Dismissed without prejudice for Want of Prosecution by the Claimant.

IT IS SO ORDERED.

BARBARA WEBB
Administrative Law Judge