

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F508730

JAMES BAUCOM

CLAIMANT

CURT BEAN TRANSPORT

RESPONDENT

COMPENSATION MANAGERS,
INSURANCE CARRIER

RESPONDENT

OPINION FILED NOVEMBER 16, 2006

Hearing before ADMINISTRATIVE LAW JUDGE MICHAEL L. ELLIG in Fort Smith, Sebastian County, Arkansas.

Claimant pro se.

Respondents represented by WALTER MURRAY, Attorney, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held on the Respondent's Motion to Dismiss for want of Prosecution on November 14, 2006. This Motion to Dismiss had been filed by the respondents on September 29, 2006. A copy of this Motion was made Commission's Exhibit No. 1 to the hearing. Notice of the scheduled hearing on the Respondents' Motion had been given to the claimant and respondents' counsel, in the manner required by the Act. The return receipt from the U.S. Post Office shows that the notice was actually received by the claimant in sufficient time prior to the scheduled hearing. A copy of the notice and the return receipt was made Commission's Exhibit No. 2 to the hearing. The remainder of the Commission's file was made Commission's Exhibit No. 3 and incorporated by reference in the transcript of the current proceeding. No one appeared on behalf of either party at the scheduled hearing.

DISCUSSION

The record reveals that the claimant filed an initial claim for benefits, in the form of an AR-C on August 19, 2005. The Commission's Director of Operations/Compliance notified the respondents of the filing of this claim on August 19, 2005. It appears that this claim was subsequently denied by the respondents in its entirety. By letter dated November 7, 2005, the Director of Operations/Compliance notified the claimant of this fact.

There is no evidence in the Commission's file that the claimant has taken any action to pursue his claim, since its initial filing.

On September 29, 2006, the respondents filed a Motion with this Commission requesting that the present claim be dismissed for want of prosecution. The claimant was properly notified of this Motion and of the hearing that had been scheduled on this Motion. A review of the Commission's file reflects that the claimant has filed no response to this Motion. As previously indicated, the claimant failed to appear and object to this Motion at the scheduled hearing, even though he had been properly notified.

The only logical inference that can be drawn from the claimant's total inaction in this case is that he does not intend to pursue his claim at the present time. It is therefore my opinion that the initial claim for benefits filed with this Commission on August 19, 2005, should be and hereby is dismissed. However, this dismissal is without prejudice to the refiling of

this claim within the time period allotted by Ark. Code Ann. §11-9-702(a).

IT IS SO ORDERED.

MICHAEL L. ELLIG
ADMINISTRATIVE LAW JUDGE