

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F310030

JOY S. BLANKENSHIP, EMPLOYEE	CLAIMANT
CUSTOM PAK, EMPLOYER	RESPONDENT
TRISSEL, GRAHAM & TOOLE, INC., INSURANCE CARRIER/TPA	RESPONDENT

ORDER OF DISMISSAL FILED DECEMBER 18, 2006

Submitted on the record before Chief Administrative Law Judge David Greenbaum on December 8, 2006, at Little Rock, Pulaski County, Arkansas.

Claimant represented by Mr. Kristofer E. Richardson, Bristow & Richardson, Attorneys-at-Law, Jonesboro, Arkansas.

Respondents represented by Ms. Cynthia E. Rogers, Frye Law Firm, Attorneys-at-Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was scheduled on December 8, 2006, in the above-styled case to determine whether the claimant was entitled to additional workers' compensation benefits. On December 7, 2006, the claimant's attorney advised that his client no longer wished to pursue her claim and consented to an Order of Dismissal with prejudice.

The immediate claim concerns an accident and injury occurring on July 21, 2003. Respondents paid various medical and indemnity benefits prior to controverting all additional benefits.

A procedural history of the claim is warranted. Again, respondents acknowledge that the claimant sustained a compensable injury to her right ring finger on July 21, 2003. Respondents apparently paid benefits through October 22, 2003, as reflected by a Commission Form AR-4, reflecting total payments of medical and indemnity benefits in the amount of \$3,335.53. On July 19, 2005, the claimant's

attorney, Kristofer E. Richardson, entered an appearance and requested a hearing to address respondents' denial of additional medical benefits and permanent partial disability benefits. The claim was then assigned to the Adjudication Division for a hearing. A Prehearing Questionnaire was sent July 21, 2005. Prehearing information filings were then submitted by both parties. A prehearing conference was scheduled for October 19, 2005. On October 19, 2005, the claim was returned to the Commission's general files because claimant's attorney advised that a hearing was premature and that additional discovery was required. The claimant failed to pursue her claim thereafter. By letter dated August 23, 2006, respondents requested that the claim be dismissed pursuant to Commission Rule 099.13. In response, the claimant objected and requested a hearing on claimant's entitlement to additional medical treatment. Accordingly, an Order was filed September 18, 2006, denying respondents' Motion to Dismiss the claim. Additional Prehearing Questionnaires were sent to the parties on September 18, 2006. Following additional prehearing information filings by both parties, a prehearing telephone conference was conducted on November 15, 2006, and a Prehearing Order was filed on said date, scheduling the matter for a formal hearing on December 8, 2006. As previously noted, immediately prior to the hearing, claimant's attorney advised that his client no longer wished to pursue her claim and consented to an Order of Dismissal with prejudice. By letter dated December 14, 2006, respondents requested that an Order be entered, dismissing the claim with prejudice.

In view of the foregoing, I hereby make the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Arkansas Workers' Compensation Commission has jurisdiction over this

claim.

2. On July 21, 2003, the claimant sustained a compensable injury arising out of and during the course of her employment with Custom Pak.
3. Respondents have controverted claimant's entitlement to all additional benefits.
4. The claimant has failed to prosecute her claim.
5. This claim should be dismissed pursuant to Ark. Code Ann. §11-9-702(d) and Commission Rule 099.13.

DISCUSSION

Rather than conduct a further analysis of the record in this cause, suffice it to say that the claimant has failed and/or refused to prosecute her claim. Further, the record reflects that the claimant has been provided an opportunity for a hearing, and that scheduling a hearing on respondents' Motion pursuant to *Dillard v. Benton County Sheriff's Office*, 87 Ark. App. 379, ___ S.W.3d ___ (2004) is not warranted because the claimant has consented to an Order of Dismissal.

After full consideration of the facts, issues, and the law, and with notice of the hearing been sent to the claimant, without objection thereto, it is hereby determined that this claim should be, and it is, hereby dismissed with prejudice.

IT IS SO ORDERED.

DAVID GREENBAUM
Chief Administrative Law Judge

/jg