

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F507648

STACEY L. BOHANNON, EMPLOYEE	CLAIMANT
E RITTER OIL COMPANY, EMPLOYER	RESPONDENT
AG-COMP SIF CLAIMS, INSURANCE CARRIER/TPA	RESPONDENT

OPINION AND ORDER FILED APRIL 27, 2006

Hearing before Chief Administrative Law Judge David Greenbaum on April 21, 2006, at Marion, Crittenden County, Arkansas.

Claimant, *pro se*, failed to appear.

Respondents represented by Ms. Betty J. Demory, Friday Eldredge & Clark, Attorneys-at-Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was scheduled on April 21, 2006, to determine whether this claim should be dismissed for want of prosecution pursuant to Ark. Code Ann. §11-9-702 and Commission Rule 13.

The immediate claim concerns an alleged accident and injury occurring on or about July 27, 2005. Respondents have controverted this claim in its entirety, based upon a positive drug screen taken following the claimant's injury.

A procedural history of the claim is warranted. After respondents controverted the claim, the claimant requested a hearing, at which time the claim was assigned to the Legal Advisor Division for a mediation conference and/or legal advisor conference. Following failed efforts at resolution, the claim was assigned to the Adjudication Division. A Prehearing Questionnaire was sent to the parties on September 9, 2005. Prehearing information filings were submitted by both parties.

Thereafter, a prehearing conference was scheduled for November 9, 2005. Attempts to contact the claimant for the prehearing telephone conference were unsuccessful. Accordingly, the claimant was returned to the Commission's general files. On or about February 3, 2006, respondents filed a Motion to Dismiss the claim for want of prosecution, a copy of which was sent to the claimant. On February 14, 2006, this Commission sent the claimant a letter, giving him twenty (20) days to respond to respondents' Motion. The letter was received on February 24, 2006, as reflected by a return receipt of the letter which was sent Certified Mail. On March 8, 2006, a Notice of Hearing was sent to the claimant, scheduling the claim for a hearing. The hearing was scheduled for April 21, 2006. The subject of the hearing concerned respondents' Motion to Dismiss. The Notice was received on or about March 15, 2006, as reflected a return receipt of the Hearing Notice. The claimant failed to appear at the scheduled hearing. Respondents introduced 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. Respondents have controverted this claim in its entirety.
3. The claimant has failed to prosecute his claim.
4. This claim should be dismissed for want of prosecution 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 documentary evidence introduced reflects that the claimant has failed and/or refused to prosecute his claim. The claimant has been advised that his failure to respond to prior notices, as well as to appear at the scheduled hearing would result in the dismissal of his claim. A hearing was scheduled at respondents' request pursuant to the decision in *Dillard vs. Benton County Sheriff's Office*, __ Ark. App. __, __ S.W.3d __ (C.A. 04-025, Opinion delivered September 22, 2004. Again, the claimant failed to appear at the scheduled hearing.

After a full consideration of the facts, issues, and the law, and 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.

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

IT IS SO ORDERED.

DAVID GREENBAUM
Chief Administrative Law Judge