

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. F508866

LISA BRATTON, EMPLOYEE

CLAIMANT

FLASH CLEANERS, EMPLOYER

RESPONDENT

MARYLAND CASUALTY COMPANY, CARRIER

RESPONDENT

OPINION AND ORDER OF DISMISSAL FILED MAY 25, 2006

This matter comes before the Commission on the respondents' motion to dismiss, filed March 21, 2006. The Commission gave notice of the motion to the claimant's attorney by letter dated March 27, 2006, and sent via certified mail and first-class mail. The claimant was warned therein that failure to respond may result in a dismissal of her claim. No response thereto has been received from the claimant. The claimant has filed no request for hearing within the last six (6) months.

Commission Rule 13 provides in relevant part as follows:

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.

A dismissal without prejudice granted under Rule 13 is not a final order, is not appealable, and does not act as a statutory bar of a claim. *Sexton v. Atlas Carriers, Inc.*, A.W.C.C. E510879 (Oct. 13, 2003). It does not act as a denial of compensation, and the claimant may refile the claim once a justiciable issue has arisen. *Gore v. National Pizza Company*, A.W.C.C. E404917 (Feb. 7, 1997).

Because the claimant has failed to respond to the instant motion, I find that the claimant has waived any right to a hearing on the motion. Because the respondents have asked that this claim be dismissed, and because the claimant has failed to prosecute this claim, I find that pursuant to Commission Rule 13 and Ark. Code Ann. § 11-9-702(a)(4), this claim should be, and hereby is, dismissed without prejudice to refiling subject to the time limitations § 11-9-702.

IT IS SO ORDERED.

BARBARA WEBB
Administrative Law Judge

Date: May 25, 2006