

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F512153

KRISTIN FULTZ	CLAIMANT
KING & COMPANY	RESPONDENT
MIDWEST INSURANCE COMPANY, INSURANCE CARRIER/TPA	RESPONDENT

OPINION FILED SEPTEMBER 6, 2006

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

Claimant not represented by counsel.

Respondents represented by MICHAEL STILES, Attorney, Little Rock, Arkansas.

STATEMENT OF THE CASE

On November 10, 2005, an AR-C was filed with this Commission by the claimant. An undated and non-file marked handwritten letter from the claimant and addressed "To Whom It May Concern" is also in the Commission's file. The respondents have controverted this claim in its entirety.

However, no hearing has ever been specifically requested by the claimant on her claim. Ultimately, the respondents filed a Motion to Dismiss for lack of prosecution and failure to timely request a hearing on May 16, 2006. A hearing was held on this Motion on June 27, 2006, and appropriate notice was sent to all parties.

The claimant filed no written response to the Motion. However, she appeared pro se at the hearing and objected to a dismissal of her claim.

DISCUSSION

At the hearing, the claimant appeared and expressed a desire to pursue her claim. The mere fact that the claimant appeared in person at the hearing on the respondents' Motion is certainly some evidence of a willingness to pursue her claim. Her response to the discovery posed to her by the respondents further supports this position.

However, at the hearing the claimant was expressly informed that the respondents' Motion was not being denied. Rather, she was told that this Motion was being taken under advisement for a period of sixty (60) days. If, during that time, the claimant requested a hearing (either personally or through counsel), then the Motion would be denied. If no further action was taken by her during this period, to pursue this claim to completion, then the respondents' Motion would be granted.

The sixty (60) day period has now expired and the claimant has made no attempt (either pro se or by counsel) to request a hearing or otherwise pursue her claim. In fact, she has had no contact whatsoever, with this Commission. Therefore, I find that the respondents' Motion is well taken and should be granted.

FINDINGS OF FACT & CONCLUSIONS OF LAW

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. On October 7, 2005, the relationship of employee-employer-carrier existed between the parties.
3. On November 10, 2005, the claimant filed a claim in this

case which was controverted in its entirety. The claimant has failed to request a hearing and has taken no further action to pursue this claim.

4. Under Ark. Code Ann. §11-9-702(a)(4) and Rule 099.13, this claim should be dismissed without prejudice to refiling within the time allotted by Ark. Code Ann. §11-9-702(a)(1).

ORDER

This claim is hereby dismissed, without prejudice to refiling within the allotted time, under the authority of Ark. Code Ann. §11-9-702(a)(1) and Rule 099.13 of this Commission.

IT IS SO ORDERED.

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MICHAEL L. ELLIG  
Administrative Law Judge