

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM F405278**

**JULIE HARDY,  
EMPLOYEE**

**CLAIMANT**

**ATKINSON FUNERAL  
SERVICES, INC.,  
EMPLOYER**

**RESPONDENT**

**FIRSTCOMP INS. CO.,  
INSURANCE CARRIER**

**RESPONDENT**

**OPINION FILED MAY 3, 2006,**

Pursuant to a hearing conducted May 2, 2006, before Administrative Law Judge Richard B. Calaway in Little Rock, Pulaski County, Arkansas, with

Mr. William C. Frye, Attorney at Law, Little Rock, Arkansas, appearing for the respondents, and

The claimant, pro se, failing to appear.

**STATEMENT OF THE CASE**

This was a hearing to consider the Motion to Dismiss for failure to prosecute, filed on behalf of the respondents.

A review of the record shows that on May 18, 2004, the Commission received a First Report of Injury, dated May 14, 2004, indicating that the claimant had reported a shoulder injury from repetitive motion at work occurring on or about April 26, 2004. The Commission also received a letter from Rhonda Huebner on behalf of the respondents asking for an extension of time to determine compensability of the claim which was under investigation. The file also shows that the claimant consulted a legal advisor on or about May 25, 2004, concerning her claim and was given the 800 Number for the insurance carrier.

The record also shows that the claimant consulted a physician on April 26, 2004, and was diagnosed as having shoulder pain. However, on May 10, 2004, her condition was described as biceps tendonitis. At that time, her physician injected her shoulder and recommended that she stay off work a few days and rest. On June 21, 2004, the claimant consulted another legal advisor who advised about pursuing the claim further. On June 17, 2004, the Commission received a Form AR-2 indicating that the claim was controverted because the claimant did not suffer a compensable injury.

After a legal advisor conference was attempted, the claimant filed a handwritten note requesting a hearing.

Thereafter, a telephone prehearing conference was scheduled for August 30, 2004, and both parties filed a response to the prehearing questionnaire. After a telephone conference with the claimant and Mr. Andy L. Caldwell, an Order was entered showing that the parties agreed to the employment relationship and an average weekly wage of \$346.00 and, further, that the claim was being controverted as a gradual onset injury not caused by rapid repetitive motion at work and also as an injury which could not be established by medical evidence, supported by objective findings. The claimant requested additional time to obtain an attorney and the file was returned to general files.

No further action has occurred in the file since that time and the respondents filed a Motion to Dismiss on or about April 10, 2006. A hearing was scheduled for May 2, 2006, and a copy of the Notice of the Hearing, as well as the Motion of the respondents, was forwarded to the claimant by Certified and Regular Mail at her last known address. The claimant failed to appear at the hearing and has failed to respond to the Motion filed on behalf of the respondents.

Accordingly, premises considered, it is hereby determined that the Motion should be, and it is hereby, granted and this claim is respectfully dismissed without prejudice.

**IT IS SO ORDERED.**

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RICHARD B. CALAWAY  
Administrative Law Judge