

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM F603290**

**GLENN DALE HENRY,  
EMPLOYEE**

**CLAIMANT**

**AIRGAS, INC.,  
EMPLOYER**

**RESPONDENT**

**AMERICAN HOME  
ASSURANCE COMPANY;  
SPECIALTY RISK SERVICES,  
INSURANCE CARRIER**

**RESPONDENT**

**OPINION FILED OCTOBER 26, 2006,**

Pursuant to a hearing conducted October 4, 2006, before Administrative Law Judge Richard B. Calaway in Little Rock, Pulaski County, Arkansas, with

Ms. Melissa Ross, Attorney at Law, Little Rock, Arkansas, appearing for the respondents, and

Mr. Glenn Henry, Cabot, Arkansas, 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 file shows that on March 27, 2006, the Commission received a Form AR-C filed on behalf of the claimant by his attorney, Mr. J. Gary Davis, and stating that the claimant was requesting additional benefits for a back injury that occurred July 17, 2005, as a result of lifting a heavy cylinder at work.

Because a hearing had been requested, the file was assigned to an administrative law judge and a telephone prehearing conference was conducted May 24, 2006. The prehearing order of the same date scheduled a hearing for August 29, 2006, and showed that the parties had stipulated to the employment relationship and an average weekly wage of \$373.87. It also showed that the claimant

contended that he sustained a compensable injury to his low back and was requesting additional benefits for medical care and temporary total disability while the respondents were contending that the claimant did not sustain a work-related injury but may suffer from the effects of pre-existing pathology which had required surgery on four occasions before the alleged injury at work. Alternatively, they asserted a notice defense barring benefits otherwise accruing prior to March 15, 2006, and, further, contended for an offset due to receipt of long-term and short-term disability benefits.

Thereafter, on July 31, 2006, an Order was entered granting the Motion to Withdraw as Attorney of Record for the claimant and noting that no attorney's lien was asserted and that the hearing remained scheduled for August 29, 2006. However, the claimant failed to appear at that hearing and on August 31, 2006, the respondents file a Motion to Dismiss.

A hearing was scheduled on the Motion for October 4, 2006, and written notice of the hearing and a copy of the Motion were sent to the claimant by certified and regular mail directed to his last known address. The claimant failed to appear at the hearing and appears to have abandoned his claim. Respondent's counsel advised that the claimant had advised by telephone call that he wanted his case dismissed. The claimant also failed both to respond in writing to the Motion to Dismiss and to appear at the hearing and appears to have abandoned his claim.

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

**IT IS SO ORDERED.**

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RICHARD B. CALAWAY  
Administrative Law Judge