

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F501066

JEFFREY A. LEWIS, EMPLOYEE	CLAIMANT
CITY OF LITTLE ROCK, EMPLOYER	RESPONDENT
RISK MANAGEMENT RESOURCES, INSURANCE CARRIER/TPA	RESPONDENT

OPINION AND ORDER FILED MARCH 22, 2006

Hearing before Chief Administrative Law Judge David Greenbaum on March 20, 2006, at Little Rock, Pulaski County, Arkansas.

Claimant, *pro se*, failed to appear.

Respondents represented by Mr. Kristopher B. Knox, Friday Eldredge & Clark, Attorneys-at-Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was scheduled for March 20, 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 August 9, 2004. Respondents have controverted the claim in its entirety, maintaining that any alleged injury did not arise out of and during the course of the claimant's employment.

A procedural history of the claim is warranted. The claimant filed a Commission Form AR-C dated January 28, 2005, and received on January 31, 2005. In response, respondents filed a Commission Form AR-2 on February 3, 2005, controverting compensability of the claim. No further action has been taken by the claimant since the filing of the claim for benefits. On January 30, 2006, respondents

filed a Motion to Dismiss the claim, at which time the claim was assigned to this administrative law judge for consideration of the Motion. On February 2, 2006, a letter was sent to the claimant both Certified Mail, as well as First-Class Mail, advising the claimant that his failure to respond to the Motion or request a hearing could result in the dismissal of his claim. The notice was received as reflected by return receipt signed February 14, 2006. The claimant failed and/or refused to respond to the notice. On February 27, 2006, a Notice of Hearing was sent to the claimant, scheduling the matter for a hearing on March 20, 2006. The subject of the hearing was limited to respondents' Motion to Dismiss the claim. Again, the notice was sent both Certified Mail, Return Receipt Requested, as well as First-Class Mail. 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. On or about January 31, 2005, the claimant filed a claim for benefits alleging an August 9, 2004, injury.
3. Respondents have controverted this claim in its entirety.
4. The claimant has failed to prosecute his claim.
5. This claim should be dismissed 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). As previously noted, 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.

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DAVID GREENBAUM  
Chief Administrative Law Judge