

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F601312

JERREACE C. MARMAN, EMPLOYEE

CLAIMANT

DOLLAR GENERAL STORE,  
SELF-INSURED EMPLOYER

RESPONDENT

OPINION AND ORDER FILED SEPTEMBER 5, 2006

Hearing before Chief Administrative Law Judge David Greenbaum on September 1, 2006, at Forrest City, St. Francis County, Arkansas.

Claimant, *pro se*, failed to appear.

Respondents represented by Ms. Betty J. Demory, Friday, Eldredge & Clark, Attorneys-at-Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was scheduled for September 1, 2006, to determine whether this claim should be dismissed for want of prosecution pursuant to Ark. Code Ann. §11-9-702 and Commission Rule 099.13.

The immediate claim concerns an alleged accident and injury occurring on October 14, 2005. Respondents have controverted the claim in its entirety, maintaining that the claimant did not provide proper notice of an alleged injury and that no medical proof has been received that the claimant sustained a work-related injury.

A procedural history of this claim is warranted. The claimant filed a Commission Form AR-C dated February 2, 2006, and received, on February 6, 2006. In response, respondents filed a Commission Form AR-2, controverting the claim. The office of Child Support Enforcement subsequently filed a child support

lien in this matter. No further communications of any nature and kind have been received from the claimant. On July 19, 2006, respondents filed a Motion to Dismiss for want of prosecution. By letter dated July 20, 2006, the claimant was advised to respond to respondents' motion or request a hearing in writing within twenty (20) days, and that failure to respond would result in the dismissal. At respondents' request, a hearing was scheduled on the Motion. A notice of hearing was sent to the parties on August 15, 2006. The hearing was scheduled for September 1, 2006. The subject of the hearing was limited to the Motion to Dismiss the claim.

The claimant failed to appear. Notice was sent both certified mail, return receipt requested and first-class mail. The certified mail was returned. The first-class mail was not returned. Respondents appeared by and through its attorney, Ms. Betty J. Demory. Ms. Demory pointed out that the claimant had failed and/or refused to respond to all discovery requests. In addition, the claimant had failed to request a hearing. Respondents, again, moved for a dismissal of the claim.

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 February 6, 2006, the claimant filed a claim for benefits, alleging an October 14, 2005, 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 claimant has failed and/or refused to prosecute his claim. The claimant has been advised that his failure to respond to correspondence from this Commission as well as appear at the scheduled hearing would result in the dismissal of his claim. A hearing was scheduled at respondents' request pursuant to a recent decision, *Dillard v. Benton County Sheriff's Office*, 87 Ark. App. 379, \_\_\_ S.W.3d \_\_\_ (2004).

After full consideration of the facts, issues, and the law, and with notice of the hearing being 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 limits imposed by Arkansas law.

IT IS SO ORDERED.

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DAVID GREENBAUM  
Chief Administrative Law Judge