

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM F502928

**DANIEL D. MCCONNELL,
EMPLOYEE**

CLAIMANT

**BARRY WRIGHT CORP.
SELECTIVE INS.
COMPANY OF AMERICA;
EMPLOYER**

RESPONDENT

**CRAWFORD & COMPANY,
INSURANCE CARRIER**

RESPONDENT

OPINION FILED OCTOBER 30, 2006,

Pursuant to a hearing conducted October 26, 2006, before Administrative Law Judge Richard B. Calaway in Hot Springs, Garland County, Arkansas, with

Mr. Walter A. Murray, Attorney at Law, Little Rock, Arkansas, appearing for the respondents, and

Mr. Daniel D. McConnell, pro se, failing to appear..

STATEMENT OF THE CASE

This was a hearing to consider a Motion to Dismiss filed on behalf of the respondents.

A review of the file shows that on March 22, 2005, the Commission received a Form 1A-1, First Report of Injury or Illness, reporting that the claimant suffered carpal tunnel syndrome on February 18, 2005, during his employment at a water treatment plant in Eureka Springs, Arkansas. On April 1, 2005, the Commission received a Form AR-2 stating that compensation had been paid and that the first indemnity check covered the period from February 28, 2005, to March 20, 2005. Beginning in April, 2005, the claimant began to consult the legal advisor division concerning payment of his indemnity benefits, medical mileage, and prescription expenses.

On May 4, 2005, Dr. Jerry Lorio performed left carpal tunnel release surgery and, on June 10, 2005, performed right carpal tunnel release surgery, and continued to follow the claimant thereafter.

In September, 2005, the claimant again called the legal advisor division concerning failure of the respondents to pay for medical mileage. In October, the claimant consulted the legal advisor division concerning payment of temporary total disability, as well as medical mileage. Thereafter, on October 6, 2005, the Commission received a written request for a hearing, also stating the claimant was willing to mediate his claim. On October 20, 2005, response to the Legal Advisor Claimant Questionnaire stated that the claimant had not been given any type of disability rating and was owed one week disability pay. The file was referred to the legal advisor division and a legal advisor attempted to set up a conference pursuant to a letter dated November 3, 2005, but also stated that failure to respond by November 18, 2005, would cause the file to be forwarded to the Clerk's Office for assignment to an administrative law judge.

On November 21, 2005, the Commission received notice of representation of the respondents by respondent's counsel. A telephone prehearing conference was scheduled for December 28, 2005. At the request of the claimant, a letter dated December 5, 2005, rescheduled the conference for January 11, 2006. An Order dated January 17, 2006, indicated that the claimant was not available for the telephone prehearing conference, although respondent's counsel appeared on behalf of the respondents. Subsequently, the claimant telephoned and was directed to consult respondent's counsel in order to resolve the issues in dispute without the necessity of a hearing. The file was returned to general files.

On September 21, 2006, the Commission received a Motion to Dismiss filed on behalf of the respondents. Notice of the hearing scheduled for October 26 and a copy of the Motion were forwarded to the claimant at his last known address by certified and regular mail. At the time of the hearing, the claimant had not responded to the prehearing questionnaire or the Motion to Dismiss

and had failed to appear at the telephone prehearing conference and also at the hearing. Thus, it appears that the claimant has 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.

RICHARD B. CALAWAY
Administrative Law Judge