

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM F106783

**OLLIE J. ROBINSON,
EMPLOYEE**

CLAIMANT

**REYNOLDS METALS CO.,
EMPLOYER**

RESPONDENT

**NATIONAL UNION FIRE
INS. CO. OF PITTSBURG,
INSURANCE CARRIER**

RESPONDENT

**CHARLES R. PADGHAM,
ATTORNEY AT LAW**

INTERVENOR

OPINION FILED JANUARY 30, 2006.

Pursuant to a hearing conducted November 3, 2005, before Administrative Law Judge Richard B. Calaway in Hot Springs, Garland County, Arkansas, with

Ms. Kimberly D. Young, Attorney at Law, Little Rock, Arkansas, appearing for the respondents; and

Ollie J. Robinson, pro se, failing to appear.

STATEMENT OF THE CASE

This is a hearing to consider the motion to dismiss filed on behalf of the respondents.

The respondents requested that this claim be dismissed for failure to prosecute. A review of the record shows that the claim was filed January 20, 2001, alleging an injury on or about January 2, 2001, as a result of exposure to asbestos and other substances during the claimant's employment. On January 21, 2003, claimant's counsel withdrew as Attorney of Record and asserted a lien. Thereafter, following a telephone prehearing conference with the claimant and counsel for the respondents, a hearing was scheduled for May 20, 2004. However, the hearing was cancelled at the request of the claimant on May 18, 2004, and the file was returned to general files.

On March 4, 2005, a Motion to Dismiss was filed on behalf of the respondents, due to the lack of activity in the case. A hearing on that Motion was conducted May 12, 2005, where Mr. Robinson appeared and requested permission to proceed with his claim. This request was granted and the Motion was withdrawn by respondents.

However, the claimant failed to appear for a telephone prehearing conference on September 13, 2005. A Motion to Dismiss dated September 15, 2005, was received by the Commission September 19, 2005. The parties were given notice of a hearing on the Motion, which was conducted November 3, 2005. On this occasion, the claimant failed to appear at the hearing. At that time, it was noted that the claimant had been advised to obtain counsel, as he had in the past, and also that the claimant had been given previous opportunities to proceed.

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

IT IS SO ORDERED.

RICHARD B. CALAWAY
Administrative Law Judge