

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F513678

JOHN L. TAYLOR, EMPLOYEE

CLAIMANT

I C CORPORATION,
SELF-INSURED EMPLOYER

RESPONDENT

OPINION AND ORDER FILED JULY 31, 2006

Hearing before Chief Administrative Law Judge David Greenbaum on July 27, 2006,
at Little Rock, Pulaski County, Arkansas.

Claimant, and his attorney, Mr. Philip M. Wilson, failed to appear at the hearing.

Respondents represented by Mr. John D. Davis, Attorney-at-Law, Little Rock,
Arkansas.

STATEMENT OF THE CASE

A hearing was conducted July 27, 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 reported on October 12, 2005. Respondents have controverted the claim in its entirety, maintaining that the alleged injury was not compensable under our Workers' Compensation Act.

A procedural history of the claim is warranted. The claimant filed Commission Forms AR-C and AR-N on or about December 15, 2005, alleging a work-related injury, specifically, a bacterial infection as the result of working with insulation at his place of employment. In response, respondents filed a Commission Form AR-2 controverting the claim in its entirety. Thereafter,

respondents propounded interrogatories to the claimant which the claimant apparently failed and/or refused to answer. Respondents then filed a Motion to Compel Answers to Interrogatories on April 12, 2006. The claim was then assigned to an Administrative Law Judge who sent a letter to the claimant dated April 20, 2006, directing claimant to respond to the interrogatories on or before May 3, 2006. Respondents then filed a Motion to Dismiss the claim for want of prosecution. On May 18, 2006, the Administrative Law Judge issued an Order compelling the claimant to respond to respondents' interrogatories and request for production of documents within fifteen (15) days. In addition, the Administrative Law Judge, by letter on the same day, May 18, 2006, requested that the claimant respond to the Motion to Dismiss on or before June 9, 2006, while advising that failure to respond by the deadline would be treated as a waiver of claimant's right to a hearing and that an Order of Dismissal would be entered. Again, the claimant failed to respond to the Motion. At respondents' request, a hearing was scheduled on respondents' Motion to dismiss the claim. The hearing notice was sent June 14, 2006, scheduling the hearing for July 27, 2006. By letter dated June 20, 2006, claimant's attorney advised that his client had been uncooperative and had not returned phone calls and letters. Claimant's attorney advised that he did not plan to attend the dismissal hearing and had no position on the Motion. 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 December 15, 2005, the claimant filed a claim for benefits alleging an October 12, 2005, injury.
3. The claimant has failed to prosecute his claim.
4. The claimant has failed to respond to an Order to Compel, entered on May 18, 2006.
5. Respondents have controverted this claim in its entirety.
6. This claim should be dismissed pursuant to Ark. Code Ann. §11-9-702(a)(4) and Commission Rule 099.13.

DISCUSSION

Rather than conduct a further analysis of the record in this cause, suffice it to say that the record 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 Orders, 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 v. Benton County Sheriff's Office*, 87 Ark. App. 379, ___ S.W.3d ___ (2004).

After a 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 time limits imposed by Arkansas Law.

IT IS SO ORDERED.

DAVID GREENBAUM
Chief Administrative Law Judge