

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F411881

RONNIE ANDERSON, EMPLOYEE

CLAIMANT

STAFFMARK, EMPLOYER

RESPONDENT

**AMERICAN HOME ASSURANCE CO.
c/o AIG CLAIM SERVICES (TPA),
INSURANCE CARRIER**

RESPONDENT

OPINION AND ORDER FILED AUGUST 14, 2007

Hearing before Administrative Law Judge Barbara Webb on August 8, 2007, in Little Rock, Pulaski County, Arkansas.

Claimant appeared *pro se*.

Respondents represented by Ms. Melissa Wood, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held on August 8, 2007, to determine whether the above-referenced claim should be dismissed for lack of prosecution pursuant to Rule 13, of the Rules of the Arkansas Workers' Compensation Commission.

The claimant sustained a compensable injury to his right leg on November 2, 2004, and respondents paid benefits for that injury.

The claimant's attorney filed a Form AR-C with the Commission on November 9, 2005. The file was assigned to an Administrative Law Judge on December 2, 2005, and Prehearing Questionnaire Notices and Prehearing Questionnaires were mailed to the parties on that date. The respondents' response to the Prehearing Questionnaire had previously been received on November 22, 2005. The claimant failed to file a response to the Prehearing Questionnaire and by letter dated January 10, 2006, the file was returned to the Commission's general files.

On April 2, 2007, the claimant's attorney, Mr. C. Michael White, requested that he be allowed to withdraw from representation of the claimant in this matter and by Order filed April 16, 2007, the Commission granted Mr. White's request.

On May 25, 2007, respondents filed a Motion to Dismiss and on May 31, 2007, the file was assigned to this Administrative Law Judge. The claimant was advised of respondents' Motion to Dismiss by letter dated May 31, 2007, sent via certified mail and first-class mail. The claimant was warned therein that failure to respond may result in a dismissal of his claim. The claimant contacted the Law Judge's office on June 20, 2007, requesting an additional two weeks to respond to respondents' Motion to Dismiss and by letter dated June 22, 2007, the claimant was given until July 6, 2007, to file a response. No response thereto has been received from the claimant. A Notice of Hearing on respondents' Motion to Dismiss was sent to the parties via certified mail and first-class mail scheduling the matter for hearing on August 8, 2007. The claimant filed no written response to respondents' Motion but appeared at the hearing to contest the Motion to Dismiss.

Rule 13 of the Rules of the Arkansas Workers' Compensation Commission states, in part, as follows:

Upon meritorious application to the Commission from either party in an action pending before the Commission, requesting that the claim be dismissed for want of prosecution, the Commission may, upon reasonable notice to all parties, enter an order dismissing the claim for want of prosecution.

At the hearing, the claimant stated that he wished to proceed to a hearing on his claim.

After review of the documentary exhibits filed by respondents and testimony of the claimant at the hearing that he wishes to pursue his claim, respondents' Motion to Dismiss is denied at this time.

A prehearing telephone conference is scheduled for **Tuesday, September 18, 2007, at 11:00 a.m.**

IT IS SO ORDERED.

BARBARA WEBB
Administrative Law Judge