

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM F604906

**MICHAEL K. CASTILLE,
EMPLOYEE**

CLAIMANT

**MANPOWER TEMPORARY
SERVICES, INC.,
EMPLOYER**

RESPONDENT

**TRANSPORTATION
INSURANCE CO.,
C/O GALLAGHER BASSETT
SERVICES, INC.,
INSURANCE CARRIER**

RESPONDENT

OPINION FILED OCTOBER 26, 2007,

Pursuant to a hearing conducted October 25, 2007, before Administrative Law Judge Richard B. Calaway in Hot Springs, Garland County, Arkansas, with

Mr. Guy Alton Wade, Attorney at Law, Little Rock, Arkansas, appearing for the respondents and

Mr. Michael K. Castille, Hot Springs, Arkansas, pro se, failing to appear.

STATEMENT OF THE CASE

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

On or about April 11, 2006, the claimant sustained a back injury as a result of a lifting incident during his employment with Manpower Temporary Services. The respondents accepted his injury as compensable but as a medical-only injury, without paying benefits for indemnity.

On May 5, 2006, a Form AR-C was filed on behalf of the claimant by Attorney Dawn M. Stidd of El Dorado, seeking additional medical expenses, indemnity benefits, rehabilitation, and an attorney's fee. Shortly thereafter, Ms. Stidd withdrew as Attorney of Record and the claimant attempted to proceed without an attorney.

On May 8, 2006, Carl Bayne, Director of Operations and Compliance sent a letter to the claimant indicating that the claim form had been filed on behalf of the claimant and advising him what should be done to respond on behalf of the respondents. On May 9, 2006, the Commission received a Form AR-2, stating that the claim was denied pending further investigation, and a First Report of Injury or Illness indicating that there was no injury or illness and no body part was affected. On May 10, 2006, Mr. Bayne informed the claimant that the respondents were denying his claim.

Legal advisor notes in the file indicate that the claimant's employment was terminated July 13, 2006, because he did not return to light duty employment that had been offered by the employer. On July 27, 2006, the Commission received the claimant's request for a change of physician and a Hearing to recover his lost wages. On the same day, a letter was sent from the Legal Advisor Division to the respondents, asking their position on the claimant's requests.

In August, the claimant indicated that he was willing to participate in mediation but the respondents indicated they were not. On August 25, the case was assigned to an administrative law judge by the Legal Advisor Division, after an attempt to arrange for a legal advisor conference had failed.

On September 14, 2006, Judge S. Dale Douthit sent the claimant prehearing documents. On September 28, the claimant's response to those documents was received, but the claimant requested that the case be transferred to Hot Springs.

Accordingly, the case was transferred to Hot Springs and a telephone conference was scheduled for October 30 before the current administrative law judge. The claimant represented himself at the conference and the respondents were represented by Mr. Guy Alton Wade. A

Prehearing Conference Order, entered October 31, noted that the respondents had accepted the claim as a medical-only injury and that the claimant was asking for additional benefits for lost wages, medical expenses, and a change of physician. The Order also indicated that the respondents contended that the claimant was not entitled to any additional benefit for his compensable injury. The claimant was advised to find an attorney familiar with Arkansas Workers' Compensation law, and the file was returned to general files.

Almost one year later, on September 24, 2007, the respondents requested that the case be dismissed for lack of prosecution. This request was considered a Motion to Dismiss and a Hearing was scheduled for October 25, 2007, with Notice of the Hearing and a copy of the respondent's letter provided by regular and certified mail to the claimant at his last known address.

The claimant failed to respond to the Motion and failed to appear at the Hearing. Respondent's counsel advised that interrogatories filed October 27, 2006, had not been answered and, further, that respondents had heard nothing from the claimant since the October 30, 2006, telephone prehearing conference. Thus, it appears that the claim has been abandoned. It is noted that, since the injury allegedly occurred April 11, 2006, any additional claim should be filed within two years from that date or the claim will be forever barred by operation of the statute of limitations.

At this time, the Motion to Dismiss should be, and it is hereby, granted and the pending claim for additional benefits is hereby dismissed without prejudice.

IT IS SO ORDERED.

RICHARD B. CALAWAY
Administrative Law Judge