

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. F613230**

SUZANNA CHAMBERS, EMPLOYEE

CLAIMANT

IC CORPORATION, SELF-INSURED EMPLOYER

RESPONDENT

OPINION FILED NOVEMBER 13, 2007

Hearing before ADMINISTRATIVE LAW JUDGE CHANDRA HICKS, on November 13, 2007, in Little Rock, Pulaski County, Arkansas.

Claimant who is pro se, failed to appear at the hearing.

Respondent was represented by THE HONORABLE JOHN DAVIS, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held on November 13, 2007, in Little Rock, Arkansas. This hearing was held for the purpose of dealing with the respondent's Motion to Dismiss and to determine whether the above-referenced matter should be dismissed for failure to prosecute pursuant to Dillard v. Benton County Sheriff's Office, 87 Ark. App. 379, 192 S.W. 3d 287 (2004). Appropriate notice of this hearing was given to all parties in the manner prescribed by law.

The respondent appeared through counsel. However, the claimant did not appear, nor did she respond to the Motion or Notices.

The record consists of the transcript of the November 13, 2007, hearing, and the exhibits contained therein.

DISCUSSION

The claimant alleges to have injured her back on October 24, 2006, while working for the respondent. Therefore, on December 5, 2006, the claimant filed with the Arkansas Workers' Compensation Commission a Form AR-C indicating that she sustained an injury to her back on October 24, 2006, while lifting a spool of wire off the top rack. The claimant requested initial and additional benefits in the form of temporary total disability compensation. On December 11, 2006, the respondent filed a Form AR-2 controverting the claim. The claimant has not made any other attempts to pursue her claim since the filing of the Form AR-C.

Subsequently, on September 28, 2007, the respondent filed a Motion to Dismiss with certificate of service to the claimant. The Commission sent a Notice to the claimant on October 5, 2007, advising her of the filing of the said Motion and of a deadline for filing a response in this matter. The claimant failed to respond to this Notice. As a result, on November 1, 2007, the Commission sent a second Notice to the parties via certified mail advising that the matter had been set for a hearing on November 13, 2007, at 11:00 a.m., in Little Rock, Arkansas.

To date, there has been no reply from the claimant to the Motion to Dismiss.

A hearing was held on November 13, 2007, on the

respondent's Motion to Dismiss. The claimant failed to appear at the hearing.

FINDINGS AND CONCLUSIONS

A review of the evidence shows the claimant has had ample opportunity to pursue this case but has failed to respond to written notices and failed to appear at the scheduled hearing.

There are two provisions for dismissal of claims: Ark. Code Ann. §11-9-702(a) (4):

If within six (6) months after the filing of a claim for compensation, no bona fide request for a hearing has been made with respect to the claim, the claim may, upon motion and after hearing, be dismissed without prejudice to the refileing of the claim within limitation periods specified in subdivisions (a) (1)-(3) of this section.

Rule 099.13:

The Commission may, in its discretion, postpone or recess hearings at the instance of either party or on its own motion. No case set for hearing shall be postponed except by approval of the Commission or Administrative Law Judge.

In the event neither party appears at the initial hearing, the case may be dismissed by the Commission or Administrative Law Judge, and such dismissal order will become final unless an appeal is timely taken therefrom or a proper motion to reopen is filed with the Commission within thirty (30) days from receipt of the order.

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. (Effective March 1, 1982)

After review, I make the following findings of fact:

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. The respondent has controverted the claim in its entirety.
3. The claimant has failed to prosecute her claim.
4. The evidence also shows the claimant has had ample opportunity to pursue this case but has failed to respond to written notices and failed to appear at the scheduled hearing.
5. That the Motion to Dismiss should be granted pursuant to Ark. Code Ann. §11-9-702(a)(4).

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, I have no alternative, but to dismiss this claim without prejudice pursuant to Ark. Code Ann. §11-9-702(a)(4).

IT IS SO ORDERED.

CHANDRA HICKS
Administrative Law Judge

