

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM F506226 & F511015

**DAVID L. HARMON,
EMPLOYEE**

CLAIMANT

**BELL WOODWORKING, LLC,
EMPLOYER**

RESPONDENT

**AMERICAN HOME
ASSURANCE CO.;
AIG CLAIMS SERVICE,
INSURANCE CARRIER**

RESPONDENT

OPINION FILED FEBRUARY 16, 2007,

Pursuant to a hearing conducted January 10, 2007, before Administrative Law Judge Richard B. Calaway in Little Rock, Pulaski County, Arkansas, with

Ms. Melissa Wood, Attorney at Law, Little Rock, Arkansas, appearing for the respondents and

Mr. David L. Harmon, pro se, Norman, Arkansas, failing to appear.

STATEMENT OF THE CASE

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

A review of Commission records reveals that two separate alleged incidents of injury are involved in the Motion to Dismiss. The first is a controverted claim based upon the allegation that the claimant suffered carpal tunnel syndrome during his employment June 10, 2005, and is the subject of Claim No. F506226. The second is an admittedly compensable finger injury which occurred October 7, 2005, and is the subject of Claim No. F511015.

The file for the carpal tunnel syndrome claim shows that the Commission received a Form AR-C from the claimant dated June 23, 2005, alleging injuries to his right arm and wrist which occurred on or about June 20, 2005, and requesting benefits for temporary partial disability, rehabilitation, and loss of work income. On July 14, 2005, the Commission received a First Report

of Injury indicating that the claimant had reported carpal tunnel in his wrist and that it was unknown as to when it happened. On July 19, 2005, the Commission received a Form AR-2 showing that the claim was being denied because the claimant's symptoms predated the insurance coverage. In a letter dated July 20, 2005, directed to the claimant, the Director of Operations and Compliance advised him that his claim was being denied and described some of his options under the law and directed him to the Legal Advisor Division if he had questions. On January 24, 2006, a Form AR-4 was filed on behalf of the respondents indicating that it was a closing report and that no benefit had been paid.

Claim No. F511015 involved the admittedly compensable injury to the claimant's finger. On October 13, 2005, the Commission received a First Report of Injury stating that the claimant had suffered a laceration to his index finger while feeding wood into an edger during his employment as a machine operator. On October 19, 2005, the Commission received a Form AR-2 from the respondents indicating that temporary total disability benefits had been initiated and describing the compensation rates. On November 2, 2005, the Commission received wage records and an additional Form AR-2 indicating that the claimant's compensation rates had been overpaid and showing calculations for the current compensation rates.

On January 6, 2006, the claimant contacted the Legal Advisor Division by telephone and was told what to do about balance billing. Thereafter, on March 30, 2006, the Commission received a closing report on a Form AR-4 indicating payment of eight weeks of temporary total disability benefits and certain medical expenses.

On June 13, 2006, the Commission received the claimant's handwritten letter describing his finger injury and his dealings with the respondents and also requesting a hearing. The file was assigned to the Legal Advisor Division for a conference. However, respondents indicated that they

were not willing to submit to voluntary mediation, after being contacted by a Legal Advisor. On July 18, 2006, the Legal Advisor forwarded the claim to the Clerk for assignment to an administrative law judge.

On July 25, 2006, Notice of a Telephone Prehearing Conference and prehearing questionnaires were forwarded to the parties for a discussion of Claim No. F511015. Respondents were represented by counsel who filed a response to the prehearing questionnaire and was available by telephone for the prehearing telephone conference. However, the claimant did not file a response to the prehearing questionnaire and could not be reached by telephone. On August 30, 2006, an Order reflecting the status of the file was forwarded to the parties.

On November 27, 2006, respondent's counsel filed a Motion to Dismiss both claims and served copies on the claimant by mail directed to him at his last known address. The claimant filed no response to the Motion. A hearing was scheduled on the Motion for January 10, 2007, and Notice of the hearing and a copy of the Motion were sent November 30, 2006, to the claimant by certified and regular mail directed to his last known address. However, the claimant failed to appear at the hearing, although respondents were represented by counsel. Accordingly, based upon a review of the records and the statements of counsel, it appears that the claimant has abandoned both claims and that the Motion should be, and it is hereby, granted and the claim for initial benefits in F506226 and the claim for additional benefits in F511015 are dismissed without prejudice. .

IT IS SO ORDERED.

RICHARD B. CALAWAY
Administrative Law Judge