

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. F700639**

**RANDALL HARRISON, EMPLOYEE**

**CLAIMANT**

**ARKANSAS BAPTIST CHILDREN'S HOMES,  
EMPLOYER**

**RESPONDENT**

**COMMERCE & INDUSTRY INSURANCE CO.  
c/o AIG CLAIM SERVICES (TPA),  
INSURANCE CARRIER**

**RESPONDENT**

**OPINION AND ORDER OF DISMISSAL FILED AUGUST 14, 2007**

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.

A hearing was previously held on June 21, 2007, to determine whether the claim should be dismissed for lack of prosecution pursuant to Rule 13 of the Rules of the Arkansas Workers' Compensation Commission. An Opinion and Order was filed by this Administrative Law Judge on June 27, 2007, denying respondents' Motion to Dismiss and scheduling a prehearing telephone conference. A prehearing telephone conference was held on July 17, 2007, and a Prehearing Order was filed on July 18, 2007, scheduling the matter for full hearing for September 14, 2007, in Monticello.

The claimant sent a letter to this Administrative Law Judge which was received July 19, 2007, wherein he stated:

I would like my claim against the Arkansas Baptist Children's Home dismissed and sent back to the general file. I understand that I will not be able to re-file this at a later date. Please schedule the dismissal hearing to accommodate your and Ms. Woods time instead of accommodating me.

The full hearing scheduled for September 14, 2007, in Monticello, was cancelled and by letter sent by certified mail from this Administrative Law Judge dated July 25, 2007, another hearing on respondents' Motion to Dismiss was

scheduled for August 8, 2007, in Little Rock. The letter was received by the claimant as evidenced by the certified mail return receipt signed by the claimant dated July 27, 2007. The claimant failed to appear at the hearing scheduled on August 8, 2007.

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.

A dismissal without prejudice granted under Rule 13 is not a final order, is not appealable, and does not act as a statutory bar of a claim. *Sexton v. Atlas Carriers, Inc.*, A.W.C.C. E510879 (Oct. 13, 2003). It does not act as a denial of compensation, and the claimant may refile the claim once a justiciable issue has arisen. *Gore v. National Pizza Company*, A.W.C.C. E404917 (Feb. 7, 1997).

Because the respondents have requested that this claim be dismissed, and because the claimant has failed to appear and prosecute this claim, I find that pursuant to Commission Rule 13 and Ark. Code Ann. § 11-9-702(a)(4), this claim should be, and hereby is, dismissed without prejudice.

**IT IS SO ORDERED.**

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BARBARA WEBB  
Administrative Law Judge