

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM F609271

**ROBERT L. HENSCHL,
EMPLOYEE**

CLAIMANT

**FROSTYAIR FOR
FROZEN FOODS,
EMPLOYER**

RESPONDENT

**GUARANTEE INS. CO.,
INSURANCE CARRIER**

RESPONDENT

OPINION FILED JUNE 15, 2007,

Pursuant to a hearing conducted May 22, 2007, before Administrative Law Judge Richard B. Calaway in Little Rock, Pulaski County, Arkansas, with

Mr. John D. Davis, Attorney at Law, Little Rock, Arkansas, appearing for the respondents and

Mr. Robert L. Henschel, pro se, Maumelle, 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 the file shows that the claimant suffered an injury to his right little finger May 30, 2006, while stacking cases of chicken or chicken products during his employment. The respondents accepted the injury as a "medical only" claim and filed the First Report of Injury June 6, 2006, which described the injury as a laceration.

On August 22, 2006, the Commission received a Form AR-C, filed by Mr. Billy J. Hubbell, Attorney at Law, Crossett, Arkansas, on behalf of the claimant, and stating that the injury occurred when a 40-pound box of frozen chicken fell on the claimant's hand, smashing the right little finger, fracturing a bone, causing nerve damage, and shredding muscle tissues. The form requested permanent partial disability benefits and an attorney's fee. A letter from Mr. Hubbell's assistant,

received the same day, asked that the file be referred to an administrative law judge for a hearing. The file then shows that on August 24, 2006, a letter from the Director of Operations and Compliance to the claimant announced that it attached an AR-C claim for benefits filed on behalf of Robert Henschel, explained what forms the claimant might file on behalf of the employer, and gave advice for obtaining forms from the Commission website.

On September 15, 2006, a Notice was sent to counsel indicating that a telephone prehearing conference had been scheduled for October 18, 2006. On that date, a telephone prehearing conference was conducted with counsel and, pursuant to the advice of claimant's counsel, the claim for additional benefits was dismissed without prejudice. On December 15, 2006, the Commission received a written request from the claimant that a hearing be scheduled concerning his case. Prehearing questionnaires were sent to the parties and a telephone prehearing conference was scheduled for January 24, 2007. On December 27, 2006, the claimant wrote to advise that he was representing himself and that Mr. Hubbell was no longer acting as his attorney. On January 2, 2007, the Commission received from Mr. Hubbell a Motion to Withdraw as Attorney of Record for the claimant. An Order dated January 3, 2007, granted the Motion and Mr. Hubbell was relieved as counsel.

The parties filed responses to the prehearing questionnaire. The claimant's response indicated that the reason for a hearing was so that he could be compensated for pain and suffering due to his injury. When the prehearing conference was attempted, the claimant was not available by telephone and an Order was entered reflecting the position of the respondents and warning the claimant that he should retain counsel familiar with Arkansas Workers' Compensation law, because of the complexity of the issues and the law and the requirement of the law that the claimant present

evidence and proof of entitlement to benefits in an adversary proceeding, although he had the right to proceed without counsel.

A Motion to Dismiss dated March 28, 2007, was filed and a copy was provided to the claimant. A hearing was scheduled on the Motion and written notice of the hearing was provided to the claimant by certified and regular mail directed to his last known address. The claimant failed to respond to the Motion and failed to appear at the hearing. Thus, it appears that the claimant has abandoned his claim.

Accordingly, at this time, the Motion should be, and it is hereby, granted and the claim for additional benefits is respectfully dismissed without prejudice.

IT IS SO ORDERED.

RICHARD B. CALAWAY
Administrative Law Judge