

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. F110710**

**ROSE S. LEWIS, EMPLOYEE**

**CLAIMANT**

**ARKANSAS CENTER FOR WOMENS  
HEALTH, EMPLOYER**

**RESPONDENT**

**RISK MANAGEMENT RESOURCES, CARRIER**

**RESPONDENT**

**OPINION FILED DECEMBER 26, 2007**

Hearing before ADMINISTRATIVE LAW JUDGE ELIZABETH W. HOGAN on December 14, 2007 at Little Rock, Arkansas.

Claimant failed to appear at the hearing.

Respondents represented by the HONORABLE BETTY HARDY, Attorney at Law, Little Rock, Arkansas.

**ISSUES**

A hearing was conducted to determine whether or not this claim 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).

After review of the Commission's file, I find the Motion should be granted.

**STATEMENT OF THE CASE**

The claimant filed AR-Cs on October 1, 2001, January 27, 2006 and February 28, 2006 alleging a left upper extremity injury on August 8, 2001. A review of the Commission's file shows the claimant has discussed her claim on several occasions with the Legal Advisors and received medical treatment consistently until 2002. The claim was dismissed in 2003 by Judge Stiles but reinstated by her Attorney, Philip Wilson. Additional medical treatment was controverted in 2006. The claim was set for a hearing in 2007 but cancelled at the last minute when the claimant fired her

attorney. No lien has been filed.

The claimant filed correspondence with the Commission indicating she was trying to find an Attorney to represent her.

\_\_\_\_\_ On August 3, 2007 the respondents filed a Motion to Dismiss this claim for lack of prosecution with a certificate of service to the claimant. To date, there has been no reply to the Motion.

A hearing notice was sent to the claimant by certified mail on November 15, 2007.

### **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 refile of the claim within limitation periods specified in subdivisions (a)(1)-(3) of this section.

Rule 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 claimant has requested a hearing within the last six months pursuant to Ark. Code Ann. §11-9-702.
3. The claimant failed to appear at the initial hearing pursuant to Rule 13.

I find the claimant has had adequate time to pursue this claim and respond to the Notices.

At the request of the respondents, this case is hereby dismissed with prejudice for failure to prosecute pursuant to Rule 13 of the Arkansas Workers' Compensation Commission.

IT IS SO ORDERED.

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ELIZABETH W. HOGAN  
Administrative Law Judge