

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F609942

ARCHIE MOORE	CLAIMANT
USA TRUCK, INC.	RESPONDENT
SELF INSURED	RESPONDENT

OPINION FILED OCTOBER 18, 2007

Hearing before ADMINISTRATIVE LAW JUDGE ELIZABETH DANIELSON in Fort Smith, Sebastian County, Arkansas.

Claimant was pro se.

Respondent represented by LYNN MANNING FLYNN, Attorney, Van Buren, Arkansas.

STATEMENT OF THE CASE

A hearing was held on the respondent's Motion to Dismiss in Fort Smith, Arkansas, on October 11, 2007, at 1:25 p.m.

The respondent filed a Motion to Dismiss in this matter on August 15, 2007, due to the claimant's lack of prosecution of his claim. The respondent's Motion sets forth that there has been no activity from the claimant since January 16, 2007, and that the claimant has not filed a pre-hearing questionnaire as directed by the ALJ nor has he made efforts otherwise to pursue his claim. The claimant was sent a letter, dated August 23, 2007, sent certified mail return receipt requested notifying him of the respondents' Motion to Dismiss. The claimant was given twenty days from the date of the letter to respond to the respondent's Motion. The Commission's letter to the claimant was returned unclaimed indicating that first notice was given to the claimant of said letter on August 27, again on September 13, and September 18, 2007. A letter was sent to the claimant as well as to the respondent

notifying both parties of a hearing on the respondent's Motion to Dismiss on October 11, 2007, at 1:15 p.m. in Fort Smith, Arkansas. The claimant's letter was sent certified mail return receipt requested. The claimant's green card was received by the Commission indicating that Matty Daily received the claimant's letter on September 24, 2007.

On October 11, 2007, at 1:25 p.m. the respondent was represented by counsel and the claimant did not appear. After restating their Motion to Dismiss and the claimant's failure to proceed with his claim, the respondent's Motion was granted.

Therefore, this claim should be dismissed due to failure to proceed with his claim under Rule 13 without prejudice.

IT IS SO ORDERED.

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ELIZABETH DANIELSON  
ADMINISTRATIVE LAW JUDGE