

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. F513288**

**JOHNNIE MURREL SR., HUSBAND  
OF FRANKIE MURREL, DECEASED EMPLOYEE**

**CLAIMANT**

**HELENA REGIONAL MEDICAL  
CENTER, EMPLOYER**

**RESPONDENT**

**ZURICH AMERICAN INSURANCE  
COMPANY, CARRIER**

**RESPONDENT**

**OPINION FILED FEBRUARY 26, 2007**

Hearing before ADMINISTRATIVE LAW JUDGE ELIZABETH W. HOGAN on February 22, 2007 at Helena, Phillips County, Arkansas.

Claimant and his attorney the HONORABLE DION WILSON appeared at the hearing.

Respondents represented by the HONORABLE MICHAEL STILES, 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. Johnnie Murrel, Sr. along with other family members stated they had no objection to the Motion to Dismiss.

**STATEMENT OF THE CASE**

The claimant filed a letter on January 6, 2006 alleging the death of his wife on December 5, 2005 was the result of an allergic reaction at work.

\_\_\_\_\_ On January 25, 2007 the respondents filed a Motion to Dismiss this claim for lack of prosecution.

## FINDINGS AND CONCLUSIONS

A review of the evidence shows the claimant has had ample opportunity to pursue his case. The claimant has not requested a hearing within the last six months and has no objection to the dismissal of this claim.

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 refiling 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 not requested a hearing within the last six months pursuant to Ark. Code Ann. §11-9-702.

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

At the request of the respondents, this case is hereby dismissed without prejudice for failure to prosecute pursuant to §11-9-702(a)(4) of the Arkansas Workers' Compensation Commission.

IT IS SO ORDERED.

---

ELIZABETH W. HOGAN  
Administrative Law Judge