

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**WCC NO. F605563**

**BRICE OGDON, EMPLOYEE**

**CLAIMANT**

**SBC SERVICES, INC.,  
SELF-INSURED EMPLOYER**

**RESPONDENT**

**SEDGWICK CLAIMS MANAGEMENT SERVICES (TPA),  
INSURANCE CARRIER**

**RESPONDENT**

**OPINION AND ORDER OF DISMISSAL FILED AUGUST 7, 2007**

This matter comes before the Commission on the respondents' Motion to Dismiss.

The claimant filed a Form AR-C with the Commission on May 22, 2006, alleging an injury having occurred on August 15, 2004. Respondents filed a Form AR-2 with the Commission on June 8, 2006, controverting the claim. By letter dated June 8, 2006, the Commission advised the claimant of respondents' denial of his claim.

On May 31, 2007, respondents filed a Motion to Dismiss Without Prejudice with the Commission. Respondents assert in its Motion to Dismiss, among other things, that Interrogatories and medical authorizations were forwarded to the claimant on June 12, 2006, that claimant has failed to respond to the Interrogatories and discovery requests, and that claimant has taken no action whatsoever to pursue his claim.

The Commission gave notice to the claimant of the respondents' Motion to Dismiss by letter dated June 8, 2007, sent via certified mail and first-class mail, which was received by claimant, as evidenced by the certified mail return receipt

signed by the claimant dated June 22, 2007. The claimant was warned therein that failure to respond may result in a dismissal of his claim. No response thereto has been received from the claimant. A Notice of Hearing on respondents' Motion to Dismiss was sent to the parties via certified mail and first-class mail on July 5, 2007, which was received by claimant, as evidenced by the certified mail return receipt signed by the claimant dated July 6, 2007. The Notice provided that "Failure to appear will result in dismissal of this claim." The claimant failed to appear at the hearing scheduled on August 1, 2007. The claimant has filed no request for hearing within the last six (6) months.

Commission Rule 13 provides in relevant 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