

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F702667

GERROD PARKS, EMPLOYEE	CLAIMANT
WAL-MART ASSOCIATES, INC., SELF-INSURED EMPLOYER	RESPONDENT
CLAIMS MANAGEMENT, INC. (TPA), INSURANCE CARRIER	RESPONDENT

OPINION AND ORDER FILED DECEMBER 6, 2007

Hearing before Administrative Law Judge Barbara Webb on December 5, 2007, in Little Rock, Pulaski County, Arkansas.

Claimant appeared pro se.

Respondents represented by Ms. Susan M. Fowler, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held on December 5, 2007, to determine whether the above-referenced claim should be dismissed for lack of prosecution pursuant to Rule 13 of the Rules of the Arkansas Workers' Compensation Commission.

The claimant filed a Form AR-C with the Commission on March 2, 2007. A subsequent Form AR-C was filed on behalf of the claimant by his attorney, Emily Paul, by cover letter dated April 6, 2007. The respondents' attorney, Susan Fowler, responded by letter dated April 27, 2007, stating that the respondents accepted the claimant's October 25, 2006, injury as compensable and have paid all related, reasonable and necessary benefits.

Respondents filed a Motion to Dismiss for Want of Prosecution on September 11, 2007, asserting among other things that the claimant had not requested a hearing nor had the claimant taken any further action to prosecute this claim after either of the AR-C filings in this matter. The claimant was advised of respondents' Motion to Dismiss by letter to his attorney, Emily Paul, dated

September 17, 2007, sent via certified mail. Subsequently, Ms. Paul filed a Motion to Withdraw as Counsel on October 9, 2007. The claimant, Gerrod Parks, was advised of respondents' Motion to Dismiss and Ms. Paul's Motion to Withdraw as Counsel by letter dated October 10, 2007, sent via certified mail and first-class mail. The claimant was given twenty (20) days to respond to both motions. The letter was received by the claimant as evidenced by the certified mail return receipt signed by the claimant dated October 17, 2007. No response thereto has been received from the claimant. On November 1, 2007, an Order was entered relieving Ms. Paul as attorney of record for the claimant. A Notice of Hearing on respondents' Motion to Dismiss was sent to the parties via certified mail and first-class mail scheduling the matter for hearing on December 6, 2007. The claimant filed no written response to respondents' Motion but appeared at the hearing to contest the Motion to Dismiss.

Rule 13 of the Rules of the Arkansas Workers' Compensation Commission states, in 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.

At the hearing, the claimant stated that he wished to proceed to a hearing on his claim.

After review of the documentary exhibits filed by respondents and testimony of the claimant at the hearing that he wishes to pursue his claim, respondents' Motion to Dismiss is denied at this time.

The claimant is given thirty (30) days from the date of the hearing to retain an attorney to represent him in this matter. After that time, if the claimant has not

retained an attorney, he will proceed pro se, and Prehearing Questionnaire Notices and Prehearing Questionnaires will be mailed to the parties.

IT IS SO ORDERED.

BARBARA WEBB
Administrative Law Judge