

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. F513674**

**GLENN PETERSON, EMPLOYEE**

**CLAIMANT**

**SUMMIT HOUSE APARTMENTS, EMPLOYER**

**RESPONDENT**

**EVEREST NATIONAL INSURANCE/  
CAMBRIDGE INTEGRATED SERVICES (TPA),  
INSURANCE CARRIER**

**RESPONDENT**

**OPINION AND ORDER OF DISMISSAL FILED MARCH 5, 2007**

This matter comes before the Commission on the respondents' motion to dismiss without prejudice. The claimant filed a Form AR-C with the Commission on December 27, 2005, asserting a right knee injury that he alleges occurred on September 17, 2005. The claimant sent a letter to the Commission which was received February 8, 2006, requesting a hearing on his claim. The file was assigned to an Administrative Law Judge and on April 12, 2006, Prehearing Questionnaire Notices and Prehearing Questionnaires were mailed to the parties. Respondent third-party administrator advised by letter dated April 27, 2006, that it was the third-party administrator in this claim and also submitted a Form AR-2, indicating that the claim was a medical-only claim. The respondents filed a Prehearing Questionnaire Response on May 4, 2006. The claimant did not file a response to the Prehearing Questionnaire and the file was returned to the Commission's general files on June 9, 2006. The claimant has taken no additional action to pursue his claim. By letter dated December 19, 2006, respondents requested that this claim be dismissed without prejudice for lack of prosecution. The Commission gave notice of the motion to the claimant by letter dated January 4, 2007, sent via certified mail and first-class mail. 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'

Peterson - F513674

motion to dismiss was sent to the parties via certified mail and first-class mail on February 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 February 28, 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 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.**

---

**BARBARA WEBB**  
Administrative Law Judge