

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F411282

CASEY RUIZ, Employee	CLAIMANT
BRINKER HEATING & COOLING, Employer	RESPONDENT
STATE AUTOMOBILE MUTUAL INS. CO., Carrier	RESPONDENT

OPINION/ORDER FILED OCTOBER 1, 2007

Hearing before ADMINISTRATIVE LAW JUDGE GREGORY K. STEWART in Springdale, Washington County, Arkansas.

Claimant represented by PHILIP WILSON, Attorney, Little Rock, Arkansas, although not present at hearing.

Respondents represented by J. LESLIE EVITTS, III, Attorney, Fort Smith, Arkansas.

OPINION/ORDER

This case comes on for review following a hearing on respondent's revised motion to dismiss.

After my review of the respondent's motion, the claimant's failure to respond thereto, and all other matters properly before this Commission, I find that the respondent's motion to dismiss this claim should be and hereby is granted.

The claimant filed AR-C claim forms on October 28, 2004 and again on January 27, 2005. Since that time, the respondent's attorney has made numerous requests to obtain a signed HIPAA release from the claimant. In fact, in a letter dated January 24, 2006, this Administrative Law Judge ordered the claimant to submit a signed HIPAA authorization to the respondent for the purpose of obtaining medical records. Despite numerous requests and an order compelling him to do so, claimant has never furnished a signed HIPAA release to the respondent. In addition, claimant has taken no other action to prosecute his claim for compensation benefits. As a result, respondent filed a revised motion to dismiss the claim and a hearing was scheduled for September 19, 2007. Notice of the

hearing was sent to the claimant and his attorney; however, neither appeared at the hearing.

Based upon the foregoing, I find that claimant has failed to prosecute his claim; therefore, the respondent's motion to dismiss this claim is hereby granted. This dismissal is without prejudice.

The respondents are ordered to pay the court reporter's charges for preparing the hearing transcript in the amount of \$112.75.

IT IS SO ORDERED.

GREGORY K. STEWART
ADMINISTRATIVE LAW JUDGE