

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM F507119

**CHERYL RYAN,
EMPLOYEE**

CLAIMANT

**OZARK INTEREST, INC.,
D/B/A CAMP OZARK,
EMPLOYER**

RESPONDENT

**GREAT AMERICAN INS.
COMPANY OF NEW YORK;
RISK MANAGEMENT RESOURCES,
INSURANCE CARRIER**

RESPONDENT

OPINION FILED FEBRUARY 7, 2007,

Pursuant to a hearing conducted February 7, 2007, before Administrative Law Judge Richard B. Calaway in Little Rock, Pulaski County, Arkansas, with

Mr. Michael E. Ryburn, Attorney at Law, Little Rock, Arkansas, appearing for the respondents and Cheryl Ryan, the claimant, pro se, failing to appear.

STATEMENT OF THE CASE

This was a hearing to consider a Motion to Dismiss filed on behalf of the respondents.

A review of the record shows that on July 19, 2005, the Commission received a First Report of Injury or Illness showing that the claimant had reported an injury to her low back as the result of cleaning behind a dishwasher in the kitchen on the premises of the respondent employer. Subsequently, the date of the injury was determined to be April 6, 2005. A Form AR-W filed July 27, 2005, indicated that the claimant's average weekly wage was \$184.00. The First Report indicated the claimant was a seasonal or temporary worker. A Form AR-2 was received by the Commission on July 27, 2005, and showed that the respondents had accepted the claim as compensable and had begun to pay benefits, noting that the first day of disability was July 12, 2005.

Counsel for the respondents indicated at the hearing that respondents had twice offered and scheduled surgery for the claimant but that the claimant had declined to accept this medical care. Thereafter, the claimant hired an attorney.

On January 19, 2006, the Commission received a Form AR-C and a letter of representation filed on behalf of the claimant by counsel. The AR-C indicated that the claimant was requesting initial benefits for temporary total disability, temporary partial disability, permanent partial disability, permanent total disability, rehabilitation, attorney's fees, medical expenses and other, which were not specified. On June 19, 2006, the Commission received a letter from claimant's counsel requesting that the claim be assigned to an administrative law judge for a hearing on the issue of compensability, medical treatment, to include epidural steroid injections, physical therapy, and an attorney's fee.

A telephone prehearing conference was scheduled for July 25, 2006, where the claimant was represented by Ms. Shannon Muse Carroll and the respondents by Mr. Michael E. Ryburn. A prehearing conference order indicated that the respondents had initially paid benefits in respect of the injury and that the parties agreed that additional discovery should be completed before scheduling the matter for a hearing. The file was returned to general files.

Thereafter, on October 20, 2006, the Commission received a Motion to Withdraw as Counsel of Record for the claimant, which was granted by the Order of the Commission dated November 17, 2006. Respondents again attempted to offer the claimant additional benefits, including medical treatment, but were unable to contact the claimant and the claimant did not return telephone calls.

Thereafter, on January 8, 2007, the Commission received a Motion to Dismiss filed on behalf of the respondents. Notice of the hearing and a copy of the Motion was sent to the claimant by

certified and regular mail directed to her last known address on January 16, 2007. The claimant did not respond to the Motion and failed to appear at the hearing.

Accordingly, premises considered, it appears that the claimant has elected not to pursue additional benefits but has abandoned this claim and, thus, the Motion should be, and it is hereby, granted and this claim for additional benefits is respectfully dismissed without prejudice.

IT IS SO ORDERED.

RICHARD B. CALAWAY
Administrative Law Judge