

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM F701753**

**MICHAEL H. SMART,  
EMPLOYEE**

**CLAIMANT**

**LEXICON, INC.,  
EMPLOYER**

**RESPONDENT**

**LIBERTY INS.  
CORPORATION,  
INSURANCE CARRIER**

**RESPONDENT**

**OPINION FILED DECEMBER 3, 2007,**

Pursuant to a hearing conducted December 3, 2007, before Administrative Law Judge Richard B. Calaway in Little Rock, Pulaski County, Arkansas, with

Mr. Joseph H. Purvis, Attorney at Law, Little Rock, Arkansas, appearing for the respondents and

Mr. Michael H. Smart, Marshall, Texas, pro se, failing to appear.

**STATEMENT OF THE CASE**

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

On or about August 1, 2005, the claimant suffered a crush injury to the end of his right middle finger. Respondents provided medical attention for the injury, including services of Dr. Jannine Andersson. Dr. Anderson released the claimant to return to work on or about October 14, 2005, without assigning permanent anatomical impairment. On February 20, 2007, the Commission received a Form C filed on behalf of the claimant asking for permanent partial disability benefits. The claimant also filed a letter with the Office of the Clerk requesting a hearing. The adjuster responded to the Commission in a letter dated March 7, 2007, stating that Dr. Andersson had released the claimant without impairment as of October 14, 2005.

The file indicates that attempts to arrange for a legal advisor conference or a mediation conference failed and the filed was referred to the Adjudication Division for a hearing. A Notice dated July 2, 2007, scheduled the matter for a conference call on August 8, 2007, at 10:30 a.m. The claimant was not available for the telephone prehearing conference and, when counsel for the respondents was contacted, the claimant's apparent issues were discussed and counsel was urged to consider resolving the matter without the necessity of a hearing. An Order dated August 31, 2007, respectfully denied and dismissed the respondent's request for a dismissal due to lack of prosecution.

On October 30, 2007, a letter was filed on behalf of respondents requesting a dismissal due to lack of prosecution.

The request was treated as a Motion to Dismiss and Notice of the Motion and a Hearing scheduled on the Motion were provided to the claimant by certified and regular mail directed to his last known address. There was no response on behalf of the claimant, who failed to appear at the hearing, pursuant to the Notice of Hearing.

At the hearing, counsel for respondents indicated that no additional correspondence had been received from the claimant and renewed the Motion to Dismiss.

Accordingly, premises considered, it is hereby determined that the Motion should be, and it is hereby, granted and this claim for additional benefits is hereby respectfully denied and dismissed without prejudice.

**IT IS SO ORDERED.**

---

RICHARD B. CALAWAY  
Administrative Law Judge