

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F609066

PATRICIA A. STOVALL, EMPLOYEE	CLAIMANT
WAL-MART STORES, INC., EMPLOYER	RESPONDENT
CLAIMS MANAGEMENT, INC., INSURANCE CARRIER/TPA	RESPONDENT

OPINION AND ORDER FILED JULY 3, 2007

Hearing before Chief Administrative Law Judge David Greenbaum on June 29, 2007, at Marion, Crittenden County, Arkansas.

Claimant failed to appear.

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

STATEMENT OF THE CASE

A hearing was conducted June 29, 2007, to determine whether this claim should be dismissed for want of prosecution pursuant to Ark. Code Ann. §11-9-702 and Commission Rule 099.13.

This claim concerns an alleged accident and injury occurring on or about August 3, 2006. Respondents have controverted the claim in its entirety, maintaining the injury is not job related.

A procedural history of the claim is warranted. After respondents filed a Commission Form AR-2, controverting the claim, the claimant wrote a letter, *pro se*, at which time the claim was assigned to the Legal Advisor Division for a Legal Advisor conference and/or a mediation conference. Thereafter, the claim was reassigned to the Adjudication Division on October 24, 2006. A prehearing

questionnaire was sent to the parties on October 26, 2006. Because the claimant failed to respond to the questionnaire as requested, the claim was returned to the Commission's general files on November 20, 2006. In addition, respondents propounded various interrogatories which the claimant failed and/or refused to answer. On May 2, 2007, respondents filed a Motion to Dismiss for want of prosecution. By letter dated May 9, 2007, the claimant was advised that failure to respond to the Motion could result in the dismissal of her claim. The notice was received on May 11, 2007, as reflected by return receipt of certified mail. On May 30, 2007, a hearing was scheduled for June 29, 2007. The subject of the hearing was respondents' Motion to Dismiss the claim. The claimant failed to appear at the scheduled hearing. Respondents, again, moved for dismissal of the claim and offered documentary evidence in support of its Motion.

From a review of the record as a whole, I hereby make the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. The claimant has filed a claim for benefits alleging an August 3, 2006, injury.
3. Respondents have controverted this claim in its entirety.
4. The claimant has failed to prosecute her claim.
5. This claim should be dismissed pursuant to Ark. Code Ann. §11-9-702(a)(4).

DISCUSSION

_____ Rather than conduct a further analysis of the record in this cause, suffice it to say that the procedural history in this claim and the documentary evidence introduced reflects that the claimant has failed and/or refused to prosecute her claim. The claimant has been advised that her failure to respond to prior notices, as well as appear at the scheduled hearing, would result in the dismissal of her claim. A hearing was scheduled at respondents' request pursuant to the decision in *Dillard v. Benton County Sheriff's Office*, 87 Ark. App. 379, ___ S.W.3d ___ (2004).

After full consideration of the facts, issues, and the law, and with notice of the hearing having been sent to the claimant, without objection thereto, it is hereby determined that this claim should be, and it is hereby dismissed without prejudice pursuant to Ark. Code Ann. §11-9-702(a)(4).

This Award shall not be construed to affect the refiling of the claim if filed within the statutory limits imposed by Arkansas law.

IT IS SO ORDERED.

DAVID GREENBAUM
Chief Administrative Law Judge