

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F700448

TEWANNA D. JOHNSON, EMPLOYEE

CLAIMANT

DENSO MANUFACTURING, EMPLOYER

RESPONDENT

MITSUI SUMITOMO INS. CO., CARRIER

RESPONDENT

OPINION FILED FEBRUARY 29, 2008

Hearing before ADMINISTRATIVE LAW JUDGE ANDREW L. BLOOD, on February 29, 2008, at Osceola, Mississippi County, Arkansas.

Claimant pro se.

Respondents represented by the HONORABLE ANDREW M. IVEY, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted in the above-style claim on a Motion to Dismiss for Want of Prosecution filed herein by respondents. On February 12, 2008, a pre-hearing conference was conducted in this claim from which a Pre-hearing Order of the same date was filed. The Pre-hearing Order reflects the issue to be addressed during the course of the hearing, as well as the time, date, and location of the hearing on the motion. The Pre-hearing Order is herein designated a part of the record as Commission Exhibit #1.

The Motion to Dismiss for Want of Prosecution, coupled with exhibits, and a supporting brief comprise the record in this claim.

DISCUSSION

_____Tewanna D. Johnson, the claimant, with a date of birth of January 27, 1973, commenced her employment with respondent-employer on September 27, 2004. On November 22, 2006, claimant sustained an injury to her low back. Claimant earned wages sufficient to entitle her to weekly compensation benefits of \$252.00/\$189.00, for temporary total/permanent partial disability.

The claimant's injury was accepted as compensable and respondents paid five (5) weeks of temporary total disability benefits totaling \$1,260.00; medical expenses totaling \$635.17; and drug and medication expenses totaling \$92.34. Respondents last paid workers compensation benefits relative to the claim on February 9, 2007, contending that the claimant had returned to work on said and had reached maximum medical improvement with a 0% permanent physical impairment.

In correspondence dated March 20, 2007, reflecting her workers' compensation claim number and telephone number, claimant requested a hearing in her claim on "loss wages and wrongful termination". (CM. #2). Claimant expressed a willingness to mediate her claim, and, in accordance with same, the file was referred to the Legal Advisor Division of the Arkansas Workers' Compensation Commission for mediation. Following the failure of the mediation process, as recited in the Motion to Dismiss, the file was referred to the Adjudication Division for a hearing on the claimant's claim.

The address of the claimant as reflected in the file of the Commission is 135 Ken Dr., Osceola, Arkansas, 72370. The afore address was also contain on the envelope bearing claimant's hearing request. According, notice of the assignment of her claim to the Adjudication Division along with notice of a scheduled July 10, 2007, pre-hearing conference was forwarded

to the parties, along with Questionnaires, on June 7, 2007. Claimant failed to respond to the Questionnaire and the file was returned to the general files of the Commission. Claimant was notified of the afore in a July 10, 2007, correspondence.

On or about January 10, 2008, respondents filed a Motion to Dismiss the present claim. The file was again forwarded to the Adjudication Division. In correspondence of January 16, 2008, claimant was provided notice of the afore filing and directions to respond to the Motion no later than February 7, 2008. The afore correspondence was sent to the claimant's last known address by certified mail-return receipt requested. Claimant failed to respond to the afore correspondence within the prescribed time period.

On February 7, 2008, a pre-hearing conference was conducted on the motion. Efforts to reach the claimant at the telephone number contained in the Commission's file were unsuccessful. Pursuant to the February 12, 2008, pre-hearing conference the present hearing on the Motion to Dismiss was scheduled. At the designated time of the hearing the docket was sounded and claimant failed to respond.

Rule 099.13 of the Arkansas Workers' Compensation Commission provides, in part:

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.

In the instant claim, the claimant has been provided ample and sufficient notice of the Motion to Dismiss filed herein by respondents. Claimant has failed to take any affirmative actions to pursue her claim.

IT IS THEREFORE FOUND that the Motion to Dismiss for Want of Prosecution should

be granted pursuant to Rule 099.13 of the Arkansas Workers' Compensation Commission, and pursuant to due process of law.

IT IS SO ORDERED.

Andrew L. Blood, ADMINISTRATIVE LAW JUDGE