

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F708562

ELIZABETH JONES, CLAIMANT	
QUENTIN L. JONES, DECEASED EMPLOYEE	CLAIMANT
CAMERON INTERNATIONAL CORP., EMPLOYER	RESPONDENT
LIBERTY MUTUAL, CARRIER	RESPONDENT

OPINION FILED JUNE 27, 2008

Hearing before ADMINISTRATIVE LAW JUDGE ELIZABETH W. HOGAN on June 25, 2008 at Little Rock, Pulaski County, Arkansas.

Claimant, Elizabeth Jones, appeared at the hearing.

Respondents represented by the HONORABLE David C. Jones, Attorney at Law, Little Rock, Arkansas.

ISSUES

A hearing was conducted to determine whether or not this claim should be dismissed for failure to prosecute pursuant to Dillard v. Benton County Sheriff's Office, 87 Ark. App. 379, 192 S.W.3d 287 (2004).

After review of the Commission's file, I find the Motion should be granted.

STATEMENT OF THE CASE

The claimant filed an AR-C on August 21, 2007 alleging a July 6, 2007 head injury resulting in the death of her husband several weeks later. A review of the Commission's file shows the claimant was formerly represented by Steven McNeely. The carrier denied the claim contending the claimant's death on July 21, 2007 was caused by an aneurism which was unrelated to the accident at work. After discovery was completed, Mr. McNeely withdrew as attorney of record in March 2008. No lien was filed. There has been no further activity in the file.

The respondents filed a Motion to Dismiss this claim for failure to prosecute on May 6, 2008. The Commission sent Ms. Jones a letter on May 13, 2008 setting a deadline for her reply. There was no response, however, Ms. Jones did attend the dismissal hearing and advised that she did not plan to pursue the claim and had no objection to the Motion.

FINDINGS AND CONCLUSIONS

There are two provisions for dismissal of claims:

Ark. Code Ann. §11-9-702(a)(4):

If within six (6) months after the filing of a claim for compensation, no bona fide request for a hearing has been made with respect to the claim, the claim may, upon motion and after hearing, be dismissed without prejudice to the refiling of the claim within limitation periods specified in subdivisions (a)(1)-(3) of this section.

Rule 13:

The Commission may, in its discretion, postpone or recess hearings at the instance of either party or on its own motion. No case set for hearing shall be postponed except by approval of the Commission or Administrative Law Judge

In the event neither party appears at the initial hearing, the case may be dismissed by the Commission or Administrative Law Judge, and such dismissal order will become final unless an appeal is timely taken therefrom or a proper motion to reopen is filed with the Commission within thirty (30) days from receipt of the order.

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. (Effective March 1, 1982)

After review, I make the following findings of fact:

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. The claimant has not requested a hearing within the

last six months pursuant to Ark. Code Ann. §11-9-702.

At the request of the parties, this case is hereby dismissed without prejudice for failure to prosecute pursuant to §11-9-702(a)(4) of the Arkansas Workers' Compensation Commission.

IT IS SO ORDERED.

ELIZABETH W. HOGAN
Administrative Law Judge