

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F800992

RONNIE LAY	CLAIMANT
TRAVIS LUMBER COMPANY	RESPONDENT
GIBRALTOR INSURANCE COMPANY, INSURANCE CARRIER	RESPONDENT

OPINION FILED **AUGUST 28, 2008**

Hearing before ADMINISTRATIVE LAW JUDGE MICHAEL L. ELLIG in Fort Smith, Sebastian County, Arkansas.

Claimant is unrepresented and not appearing at the hearing.

Respondents represented by MELISSA WOOD, Attorney, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held on the Respondents' Motion to Dismiss, which was filed in the above styled claim on August 1, 2008. A hearing was set on this Motion for August 26, 2008, at 1:30 p.m. in the Commission's office in Fort Smith, Arkansas. Notice of this hearing was sent to the claimant certified mail return receipt requested. The notice was additionally sent to the claimant at Route 1, Box 875, Wister, Oklahoma. When this notice was returned, a new notice was sent to the claimant at 14891 Southeast 155th Road, Wister, Oklahoma. This notice was also returned by the U. S. Post Office as not deliverable and unable to forward.

At the hearing, the respondents were represented by counsel. The claimant did not appear personally or by representative.

DISCUSSION

_____A review of the Commission's file reveals that a claim was initially filed on behalf of the claimant by his attorney, M. Jered Medlock. This claim was filed with the Commission on January 31, 2008. The attached AR-C requested initial

benefits in the form of temporary total disability, permanent partial disability, medical expenses, and attorney's fees.

The respondents subsequently notified the claimant and this Commission that the claim was being accepted as compensable, but as a "medical only" claim. The Commission's file indicates that the respondents paid some \$2,132.83 in medical expenses.

Mr. Medlock requested leave to withdraw as the claimant's attorney of record, on February 27, 2008. He was subsequently relieved as the claimant's attorney of record by the Full Commission, in an Order dated March 18, 2008.

A review of the Commission's file indicates that the claimant has taken no action, whatsoever, to pursue any of the previously made claims for benefits for temporary total disability and permanent partial disability. In fact, no further action has been taken or any contact made by the claimant, or any representative on his behalf, since the filing of this case.

After consideration of the Respondents' Motion and the entire Commission's file, it would appear that the claimant has abandoned his claim for temporary total and permanent partial disability benefits. It would further appear that the previous claim for medical services has been satisfied by the respondents' payment of \$2,132.83 in medical expenses.

Therefore, I find that the Respondents' Motion should be granted. Any outstanding claims for benefits that were previously made in this case should be dismissed, without prejudice, for the claimant's failure to diligently prosecute.

FINDINGS OF FACT & CONCLUSIONS OF LAW

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.

2. On or about February 10, 2006, the relationship of employee-employer-carrier existed between the parties.

3. On or about February 10, 2006, the claimant sustained a compensable injury to his neck and head.

4. On January 31, 2008, the claimant filed an initial claim for benefits, which sought benefits for temporary total disability, permanent partial disability, medical expenses, and attorney's fees. The claimant has taken no action to pursue this claim, following its initial filing. Thus, the claimant has failed to diligently prosecute his claim and has failed to request a hearing within the time allotted by Ark. Code Ann. §11-9-702 (a)(4) or §11-9-702 (d). Thus, the respondents are entitled to a dismissal of the claim, without prejudice.

ORDER

Any pending claims for additional benefits are hereby denied and dismissed, without prejudice, for the reasons heretofore set forth in this Opinion.

IT IS SO ORDERED.

MICHAEL L. ELLIG
ADMINISTRATIVE LAW JUDGE