

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F702667

GERROD PARKS, EMPLOYEE	CLAIMANT
WAL-MART ASSOCIATES, INC., SELF-INSURED EMPLOYER	RESPONDENT
CLAIMS MANAGEMENT, INC. (TPA), INSURANCE CARRIER	RESPONDENT

OPINION AND ORDER FILED MAY 2, 2008

Hearing before Administrative Law Judge Barbara Webb on May 1, 2008, in Little Rock, Pulaski County, Arkansas.

Claimant appeared pro se.

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

STATEMENT OF THE CASE

A hearing was held on May 1, 2008, to determine whether the above-referenced claim should be dismissed for lack of prosecution pursuant to Rule 13 of the Rules of the Arkansas Workers' Compensation Commission.

A hearing was previously held on December 5, 2007, to determine whether the above-referenced claim should be dismissed for lack of prosecution pursuant to Rule 13 of the Rules of the Arkansas Workers' Compensation Commission.

At the hearing held on December 5, 2007, the claimant appeared and stated that he wished to proceed to a hearing on his claim.

By Opinion dated December 6, 2007, respondents' Motion to Dismiss was denied at that time.

The claimant was given thirty (30) days from the date of the December 6, 2007, hearing to retain an attorney to represent him in this matter. After that time, if the claimant had not retained an attorney, he would proceed pro se, and

Prehearing Questionnaire Notices and Prehearing Questionnaires would be mailed to the parties.

The claimant did not retain an attorney by the given time and on February 6, 2008, Prehearing Questionnaire Notices and Prehearing Questionnaires were mailed to the parties. The claimant did not file a response to the Prehearing Questionnaire by the deadline and respondents again filed a Motion to Dismiss for Want of Prosecution.

The claimant was advised of respondents' Motion to Dismiss by letter dated March 31, 2008, sent via certified mail and first-class mail. The claimant was given twenty (20) days to respond to the Motion. No response thereto has been received from the claimant. A Notice of Hearing on respondents' Motion to Dismiss was sent to the claimant via certified mail and first-class mail scheduling the matter for hearing on May 1, 2008. The claimant filed no written response to respondents' Motion but appeared at the hearing to contest the Motion to Dismiss.

Rule 13 of the Rules of the Arkansas Workers' Compensation Commission states, in part, as follows:

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.

At the second hearing on respondents' Motion to Dismiss, the claimant stated that he wished to proceed to a hearing on his claim.

After review of the documentary exhibits filed by respondents and testimony of the claimant at the hearing that he wishes to pursue his claim, respondents' Motion to Dismiss is denied at this time.

At the hearing held May 1, 2008, the claimant was hand delivered a copy of the Prehearing Questionnaire and advised to file a response by May 20, 2008. The

claimant provided a signed medical release to respondents' attorney. The claimant was advised at the hearing that failure to cooperate with discovery would result in dismissal of his claim with prejudice.

IT IS SO ORDERED.

BARBARA WEBB
Administrative Law Judge