

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F611974

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| LUCAS POYNER | CLAIMANT |
| WAL-MART ASSOCIATION, INC. | RESPONDENT |
| CLAIMS MANAGEMENT, INC. CARRIER | RESPONDENT |

OPINION FILED JULY 29, 2008

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS in Fort Smith, Sebastian County, Arkansas.

Claimant appeared pro se.

Respondents represented by CURTIS NEBBEN, Attorney, Fayetteville, Arkansas.

STATEMENT OF THE CASE

On May 6, 2008, the above captioned claim came on for a hearing on the respondents' Motion to Dismiss at Fort Smith, Arkansas. A pre-hearing conference was scheduled for July 17, 2007, but the claimant did not make himself available for the conference. A letter was mailed to the claimant on July 17, 2007, asking him to contact this Commission so that another pre-hearing conference could be scheduled. The claimant failed to comply.

On February 25, 2008, this Commission received a Motion to Dismiss filed by the respondents. A letter was mailed to the claimant on February 26, 2008, which confirmed a telephone conversation with the claimant on February 21, 2008, when the claimant voiced his desire to continue to hearing. The claimant was advised to put his request in writing but no such request was received by this Commission. On April 3, 2008, a letter was mailed

to the claimant via certified mail/return receipt requested notifying the parties that a hearing on respondents' Motion to Dismiss was scheduled for May 6, 2008. The certified card was received on April 10, 2008. Respondents were represented at the hearing and the claimant did appear.

More than six months have elapsed since the scheduled pre-hearing conference. I find that the claimant has not been responsive, did not appear at the hearing, and that pursuant to Ark. Code Ann. §11-9-702, this claim will be dismissed without prejudice.

From a review of the record as a whole, to include medical reports, documents, and other matters properly before the Commission, the following findings of fact and conclusions of law are made in accordance with A.C.A. §11-9-704:

FINDINGS OF FACT & CONCLUSIONS OF LAW

1. The claimant appearing pro se, requested a hearing in this matter and submitted a pre-hearing questionnaire on June 18, 2007.

2. A pre-hearing conference was scheduled on July 17, 2007, at 1:00 p.m. The claimant could not be reached by telephone for the pre-hearing conference.

3. The claimant has failed to get in touch with the Commission so that a pre-hearing conference can be rescheduled; and, therefore has failed to prosecute this claim.

4. More than six months have elapsed since the scheduled pre-hearing conference and the claimant has failed to make a bona fide request for a hearing.

ORDER

Pursuant to Ark. Code Ann. §11-9-702, this claim is hereby dismissed without prejudice.

IT IS SO ORDERED.

ERIC PAUL WELLS
ADMINISTRATIVE LAW JUDGE