

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F210622

LIZZIE RAILEY

CLAIMANT

TYSON POULTRY, INC.
SELF INSURED

RESPONDENT

OPINION FILED AUGUST 20, 2008

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS in Springdale, Washington County, Arkansas.

Claimant represented by EVELYN BROOKS, Attorney, Fayetteville, Arkansas.

Respondents represented by FARRAH FIELDER, Attorney, Fort Smith, Arkansas.

STATEMENT OF THE CASE

On May 27, 2008, the above captioned claim came on for a hearing before Administrative Law Judge Eric Paul Wells on Respondents' Motion to Dismiss at Springdale, Arkansas.

DISCUSSION

The claimant filed an AR-C by letter dated October 8, 2003, and claimed benefits. The respondents have requested a dismissal of this claim on February 28, 2005, October 28, 2005, and September 21, 2006. None of those dismissals were granted and this file was returned to general files. The current Motion to Dismiss was filed on May 2, 2008. There has been no activity in this case in excess of one (1) year and a bona fide hearing has not been requested by the claimant even though the claimant is represented by counsel. By admission of claimant's counsel there are currently no benefits in dispute in this matter. Therefore, any pending claims for additional benefits do not represent a bona fide claim sufficient to toll the statute of limitations and should be dismissed without

prejudice subject to refiling within the time allotted by the Ark. Code Ann. §11-9-702(b).

ORDER

_____Based upon my foregoing findings this case is dismissed without prejudice.

IT IS SO ORDERED.

ERIC PAUL WELLS
ADMINISTRATIVE LAW JUDGE