

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F605299

PENNY WILLIAMS, WIDOW OF DECEDENT, SHELBY WILLIAMS, EMPLOYEE	CLAIMANT NO. 1
ASHLY WILLIAMS, DAUGHTER OF DECEDENT, SHELBY WILLIAMS, EMPLOYEE	CLAIMANT NO. 2
KLAASMEYER CONSTRUCTION CO., INC., EMPLOYER	RESPONDENT NO. 1
AMERISURE INSURANCE CO., CARRIER	RESPONDENT NO. 1
DEATH & PERMANENT TOTAL DISABILITY TRUST FUND	RESPONDENT NO. 2

**OPINION AND ORDER OF DISMISSAL WITHOUT PREJUDICE**  
**FILED SEPTEMBER 29, 2008**

This matter comes on for consideration of the Motion to Dismiss for failure to prosecute filed by Respondent No. 1 on July 11, 2008. Respondent No. 1 is represented by Attorney John Davis. Respondent No. 2 is represented by Attorney Christy King. Penny Williams and Ashly Williams are each pro se.

A hearing was held on the respondent's motion in Little Rock, Arkansas on August 26, 2008. Of the various parties, only Mr. Davis appeared on behalf of Respondent No. 1. The record consists of the transcript of the August 26, 2008, hearing and the exhibits contained therein.

By way of history, both Penny Williams and Ashly Williams were at one time represented by attorneys.

However, both attorneys were previously relieved as attorneys of record. Consequently, when I mailed letters for Penny Williams and Ashly Williams on May 5, 2008, seeking information from each claimant, I sent those letters to their last known addresses by first class mail. When neither claimant responded to my request for information, I returned this case to the Commission's general files on July 9, 2008.

After Mr. Davis filed his most recent Motion to Dismiss for failure to prosecute, I sent both claimants a certified letter on July 21, 2008, at their last known addresses notifying each of them of the date, time and location of the hearing. My letter to Ashly Williams at her New Edinburg, Arkansas address was returned to the Commission marked "UNCLAIMED". My letter to Penny Williams at her Yakima, Washington address was claimed and signed for by Ashly Williams on July 24, 2008.

After considering the respondent's Motion to Dismiss for failure to prosecute, the claimants' lack of response to my May 5, 2008 letters, and the claimants' failure to appear for the hearing held on August 26, 2008, I find that the latest Motion to Dismiss for failure to prosecute should be, and hereby is, granted. I also find that the dismissal

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shall be without prejudice to refiling within the  
appropriate limitations period.

\_\_\_\_\_IT IS SO ORDERED.

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MARK CHURCHWELL  
Administrative Law Judge