

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F510250

MICHAEL WRIGHT CLAIMANT

AALFS MANUFACTURING RESPONDENT

HARTFORD INSURANCE COMPANY,  
INSURANCE CARRIER RESPONDENT

OPINION FILED FEBRUARY 11, 2008

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

Claimant pro se.

Respondents represented by TOM HARPER, JR., Attorney, Fort Smith, Arkansas.

STATEMENT OF THE CASE

A hearing was held on the Respondents' Motion to Dismiss on January 22, 2008, in Fort Smith, Arkansas. The Respondents' Motion was made Commission's Exhibit No. 1 to the hearing.

Notice of the scheduled hearing was sent to the claimant by certified mail, return receipt requested. A copy of this notice together with the return receipt by the U. S. Post Office was made Commission's Exhibit No. 2 to the hearing.

The entire remainder of the Commission's file was admitted as Commission's Exhibit No. 3 and was incorporated by reference in the transcript of the hearing.

DISCUSSION

\_\_\_\_\_The Commission's file reflects that something was filed setting up this claim in September of 2005. However, the first document filed in this case bears a date of September 23, 2005. This document is the respondent's first report of injury or

illness. On September 28, 2005, the respondents filed a notice of controversion of the claim.

The first action taken by the claimant was in the form of a request for hearing that was filed on October 24, 2005. No. AR-C was apparently ever filed by the claimant.

The parties appear to have agreed to mediation and a mediation hearing was arranged by David Schneider, one of the Commission's Legal Advisors. This mediation never occurred because the claimant could not be reached at the scheduled time.

No subsequent action as been taken by the claimant. In fact, no contact, whatsoever, has been received from the clamant.

In light of the claimant's failure to participate in the previously scheduled mediation, his lack of action to pursue his claim following the failed mediation, his failure to respond to the Motion to Dismiss, and his failure to appear at the hearing scheduled on this Motion, it is my opinion that the claimant has not diligently prosecuted this claim. The Respondents' Motion to Dismiss is well taken and should be granted.

#### FINDINGS OF FACT & CONCLUSIONS OF LAW

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

2. On all relevant dates, the relationship of employee-employer-carrier existed between the parties.

3. A "claim" was filed by the claimant on October 24, 2005. This represented an initial claim for benefits.

4. The respondents have denied the occurrence of any compensable injury, have not paid any benefits, and have controverted the claim in its entirety.

5. The claimant has failed to prosecute or pursue his claim in a prompt and diligent manner. In fact, the current record would support the conclusion that the claimant has abandoned this claim.

6. The respondents are entitled to a dismissal of this claim for the claimant's failure to diligently pursue his claim.

ORDER

Based upon my findings and conclusions, the Respondents' Motion to Dismiss is well taken and should be granted.

Therefore, this claim is dismissed in its entirety. This dismissal is without prejudice to refile within the time allowed by Ark. Code Ann. §11-9-702(a).

IT IS SO ORDERED.

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MICHAEL L. ELLIG  
ADMINISTRATIVE LAW JUDGE