

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F001975

DANIEL COOPER, EMPLOYEE	CLAIMANT
CONTINENTAL EXPRESS, EMPLOYER	RESPONDENT
GIBRALTAR NATIONAL INSURANCE COMPANY, INSURANCE CARRIER	RESPONDENT

ORDER FILED AUGUST 29, 2003

Upon review before the FULL COMMISSION, Little Rock, Pulaski County, Arkansas.

Claimant represented by HONORABLE JAY TOLLEY, Attorney at Law, Fayetteville, Arkansas.

Respondent represented by HONORABLE JEREMY SWEARINGEN, Attorney at Law, Little Rock, Arkansas.

ORDER

This matter is currently before the Commission on the respondent's Motion to Dismiss Claimant's Appeal to the Arkansas Court of Appeals. The claimant has filed no response to this motion.

This matter is currently pending before the Arkansas Court of Appeals and the Commission has no jurisdiction. After duly considering the respondent's motion and all other matters properly before the Commission, we find that we do not have authority to dismiss the appeal. Pursuant to Ark. R.App.R. Rule 3(b), this Commission can dismiss an appeal to the Court of Appeals only if the motion

to dismiss is filed with the Commission before the record is docketed with the Court, and if all parties to the appeal petition for dismissal and jointly stipulate that the case is to be dismissed. In Re Arkansas Rules of Appellate Procedure 3(b), 296 Ark. 580, 755 S.W.2d LXXV (1988).

In the present case, the claimant and the respondent have not jointly stipulated to dismiss the appeal. Because the Commission is without jurisdiction over this claim, we have no authority to grant the respondent's motion. Therefore, we find that the respondent's Motion to Dismiss Claimant's Appeal to the Arkansas Court of Appeals must be and hereby is denied. The respondent's motion must be made to the Court of Appeals.

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

SHELBY W. TURNER, Commissioner

JOE E. YATES, Commissioner