

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F211461

MARQUES H. FISCHER, EMPLOYEE	CLAIMANT
CAPITAL HOTEL, EMPLOYER	RESPONDENT
CHUBB GROUP OF INS. CO., CARRIER	RESPONDENT

ORDER FILED DECEMBER 8, 2003

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

Claimant, MARQUES H. FISCHER, presents pro se.

Respondent represented by HONORABLE CAROL L. WORLEY, Attorney at Law, Little Rock, Arkansas.

ORDER

This case is before the Commission on the respondent's motion to dismiss appeal. Based upon our de novo review of the record, we find that the respondent's motion should be granted. Claimant's appeal from the July 14, 2003, Administrative Law Judge decision was filed untimely.

Pursuant to Ark. Code Ann. §11-9-711(a)(1)(Repl. 2002), the opinion of the Administrative Law Judge became final unless the claimant filed an appeal in writing within 30 days from the receipt of the opinion. The procedural requirements set forth in the statute are mandatory or jurisdictional and require strict compliance. Cooper Industrial Products v. Meadows, 5 Ark. App. 205, 634 S.W.2d 400 (1982); Lloyd v. Potlatch Corporation, 19 Ark. App. 335,

721 S.W.2d 670 (1986). Therefore, the opinion of the Administrative Law Judge becomes final and the Full Commission cannot review it if the petition for review is not received within 30 days, as set forth in the statute. Smith v. Servomation, 8 Ark. App. 274, 651 S.W.2d 115 (1983). Moreover, the rule of unavoidable casualty does not apply to the failure to file a notice of appeal in a timely manner. Williams v. Luft Construction Co., 31 Ark. App. 198, 790 S.W.2d 921 (1990).

The Administrative Law Judge's opinion was filed on July 14, 2003. Claimant asserts that he did not receive a copy of the opinion until August 19, 2003. However, the certified mail return receipt was signed as received by the claimant's attorney on July 17, 2003. It is well established that receipt by or notice to the claimant's attorney is receipt or notice to the claimant. Kathy Kohl v. Linda Shepard, P.A., Full Commission Opinion filed April 2, 1993, (E204291); Stella Caffey v. Sanyo Mfg. Co., Full Commission Opinion filed March 12, 1993, (C808187). Therefore, we find that the claimant received notice of the opinion on July 17, 2003, when his attorney signed for the Administrative Law Judge opinion. The fact that the claimant is no longer represented by this attorney is of no moment. At the time of the hearing, and when the opinion

was issued by the Administrative Law Judge, the attorney-client relationship existed between the claimant and this former attorney.

The Administrative Law Judge's opinion became final by at least August 16, 2003, 30 days after claimant received notice of the opinion via receipt by his attorney. Claimant did not file his notice of appeal with the Commission until September 9, 2003, after the opinion became final. Accordingly, we find that the respondent's motion to dismiss the claimant's appeal is well taken and should be and hereby is dismissed.

IT IS SO ORDERED.

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OLAN W. REEVES, Chairman

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SHELBY W. TURNER, Commissioner

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KAREN H. MCKINNEY, Commissioner