

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. E702846

CLARENCE D. CALLAHAN, EMPLOYEE	CLAIMANT
RIDDELL FLYING SERVICE, INC., AN UNINSURED EMPLOYER	RESPONDENT NO. 1
ARKANSAS FORESTRY COMMISSION, EMPLOYER	RESPONDENT NO. 2
PUBLIC EMPLOYEE CLAIMS DIVISION, CARRIER	RESPONDENT NO. 2

ORDER FILED MAY 14, 2004

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

Claimant represented by HONORABLE KENNETH E. BUCKNER,
Attorney at Law, Pine Bluff, Arkansas.

Respondent No. 1 represented by HONORABLE WILLIAM C. FRYE
and HONORABLE ANDREW L. CALDWELL, Attorneys at Law, Little
Rock, Arkansas.

Respondent No. 2 represented by HONORABLE RICHARD SMITH,
Attorney at Law, Little Rock, Arkansas.

ORDER

This matter is currently before the Commission on claimant's Motion to Withdraw Appeal to the Arkansas Court of Appeals. The respondents have 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 claimant'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.P. 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 respondents have not jointly stipulated to dismiss the appeal. Because the Commission is without jurisdiction over this claim, we have no authority to grant the claimant's motion. Therefore, we find that the claimant's Motion to Withdraw Appeal to the Arkansas Court of Appeals must be and hereby is denied. The claimant's motion must be made to the Court of Appeals.

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

SHELBY W. TURNER, Commissioner

KAREN H. MCKINNEY, Commissioner