

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F012509

LARRY WRIGHT II,
EMPLOYEE

CLAIMANT

DASSAULT FALCON JET CORP.,
EMPLOYER

RESPONDENT

WAUSAU,
INSURANCE CARRIER

RESPONDENT

ORDER FILED FEBRUARY 23, 2004

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

Claimant represented by HONORABLE KENNETH A. OLSEN, Attorney at Law, Little Rock, Arkansas.

Respondents represented by HONORABLE GUY A. WADE, Attorney at Law, Little Rock, Arkansas.

ORDER

This matter is currently before the Full Commission on the respondents' attorney's Motion to Dismiss Claimant's Appeal to the Arkansas Court of Appeals and dismiss this claim with prejudice. Claimant's appeal to the Court of Appeals was never perfected even after the filing of a notice of appeal from our Order entered July 22, 2003. While the time to file the record on appeal is ninety (90) days from the date of the notice of appeal (August 15, 2003), the claimant has clearly exceeded that time frame with no extension requests. Ark. R. App. P. Rule 5.

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 the present case, while this motion was filed before the record was docketed, the claimant and the respondents have not jointly stipulated to dismiss the appeal. Because we cannot grant this motion due to lack of jurisdiction, we must deny this request.

In our opinion issued July 22, 2003, we reversed the Administrative Law Judge's granting the claimant additional medical treatment after 2001. We also denied and dismissed the claim. Respondents' attorney requested that we dismiss this claim with prejudice now that the appeal has not been perfected. We have already denied and dismissed the claim. Since this case has not been appealed, our Order is final and the claim was dismissed. This renders that motion moot.

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

SHELBY W. TURNER, Commissioner

KAREN H. MCKINNEY, Commissioner