

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F011701

CLYDE O. COX, EMPLOYEE	CLAIMANT
DEQUEEN SAND & GRAVEL CO., EMPLOYER	RESPONDENT NO. 1
ST. PAUL MERCURY INS. CO., CARRIER	RESPONDENT NO. 1

ORDER FILED NOVEMBER 2, 2005

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

Claimant represented by HONORABLE GREGORY R. GILES, Attorney at Law, Texarkana, Arkansas.

Respondent No. 1 represented by HONORABLE JOSEPH E. KILPATRICK, Attorney at Law, Little Rock, Arkansas.

ORDER

This case comes before the Full Commission on the claimant's Motion to Withdraw his Appeal to the Court of Appeals. The Full Commission issued a decision on August 1, 2005. The respondents filed an appeal of that decision on August 26, 2005. The claimant filed an appeal on the same date. The claimant subsequently filed a Motion for Clarification of the August 1, 2005, opinion. On September 28, 2005, the Full Commission granted the Motion for Clarification and issued a decision amending the August 1, 2005 decision. The claimant's motion now seeks to withdraw his appeal to the Court of Appeals. The respondent has not filed a response to the motion.

After duly considering the claimant's motion and all other matters properly before the Commission, we find that we do not have the authority to dismiss the claimant's 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. See also, In Re Arkansas Rules of Appellate Procedure 3(b), 296, Ark. 580, 756 S.W.2d LXXV (1988). In the present case, the claimant and the respondent have not jointly stipulated to withdraw the claimant's appeal. Therefore, we find that the claimant's motion to withdraw the appeal must be and hereby is denied. The claimant's motion must be addressed with the Court of Appeals.

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

SHELBY W. TURNER, Commissioner

KAREN H. MCKINNEY, Commissioner