

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F209049

RICHARD WHITE, EMPLOYEE	CLAIMANT
AMERICAN FUEL CELL & COATED FABRICS, EMPLOYER	RESPONDENT
THE ZENITH INSURANCE CO., CARRIER	RESPONDENT

ORDER FILED NOVEMBER 30, 2005

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

Claimant is not represented by counsel, but appears *pro se*.

Respondent represented by HONORABLE MATTHEW MAULDIN, Attorney at Law, Little Rock, Arkansas.

ORDER

This case comes on for review before the Full Commission on respondents' Motion to Dismiss Claimant's Untimely Appeal, and Claimant's Motion to Submit Additional Evidence.

After careful consideration of the motion filed by respondents, claimant's objection thereto and all other matters properly before the Full Commission, we find that respondents' motion must be granted.

Pursuant to Ark. Code Ann. § 11-9-711 (a) (1) (Repl. 2002), the opinion of the Administrative Law Judge

became final, unless claimant filed an appeal 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. 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).

In the present case the Administrative Law Judge filed an opinion on November 18, 2003. As evidenced by Amended Exhibit "A" attached to the respondents' motion, claimant's attorney received the opinion on November 21, 2003. The claimant had until December 21, 2003, to file his notice of appeal. However, claimant's notice of appeal was not filed with the Commission until September 16, 2005, more

than a year and a half after the Administrative Law Judge's opinion became final.

Accordingly, we find that respondents' Motion to Dismiss Claimant's Untimely Appeal should be, and hereby is, granted. Having found that the appeal must be dismissed, claimant's motion to submit additional evidence is hereby moot.

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

KAREN H. MCKINNEY, Commissioner

Commissioner Turner dissents.