

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F001124

LARRY D. COUCH,
EMPLOYEE

CLAIMANT

FIRESTONE TUBE CO., EMPLOYER

RESPONDENT NO. 1

GALLAGHER BASSETT SERVICES,
INSURANCE CARRIER, TPA

RESPONDENT NO. 1

DEATH & PERMANENT TOTAL
DISABILITY TRUST FUND

RESPONDENT NO. 2

OPINION FILED JUNE 21, 2006

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

Claimant represented by the HONORABLE AARON L. MARTIN,
Attorney at Law, Fayetteville, Arkansas.

Respondent No. 1 represented by the HONORABLE BETTY J.
DEMORY, Attorney at Law, Little Rock, Arkansas.

Respondent No. 2 represented by the HONORABLE JUDY W. RUDD,
Attorney at Law, Little Rock, Arkansas.

ORDER

This matter comes for review before the Commission
on Respondent No. 2's Motion for Reconsideration on a prior
Motion for Expedited Dismissal of Appeal to the Court of
Appeals. The Full Commission rendered a decision on January
25, 2006. Respondent No. 2 filed an appeal with the Court

of Appeals on February 23, 2006. At the same time, Respondent No. 2 also lodged the record with the Court of Appeals. However, they did not perfect the appeal by paying the filing fee to the Court of Appeals. Respondent No. 2 filed a motion to dismiss the appeal. The other parties jointly stipulated to dismiss the appeal.

On May 22, 2006, the Commission issued a decision finding that they had no jurisdiction to dismiss the appeal because the record had already been lodged with the Court of Appeals.

Respondent No. 2 now seeks reconsideration of their prior motion to dismiss the appeal. In support of their motion, they submit an affidavit from Leslie Steen, Clerk of the Courts, indicating that while the record was tendered, it has not been filed with the Court of Appeals because the filing fee has not been paid.

After duly considering the Respondent No. 2's motion and all other matters properly before the Commission, we grant the motion 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).

It is apparent that Respondent No. 2 filed a timely appeal and while the notice of appeal has already been filed, the record is not lodged with the Court of Appeals. Accordingly, we grant Respondent No. 2's motion to dismiss the appeal.

_____ IT IS SO ORDERED.

OLAN W. REEVES, Chairman

SHELBY W. TURNER, Commissioner

KAREN H. MCKINNEY, Commissioner