

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. E815108

CHARLES D. GREEN,
EMPLOYEE

CLAIMANT

JAMES HARDIE GYPSUM, INC.,
EMPLOYER

RESPONDENT NO. 1

ZURICH INSURANCE CO.,
INSURANCE CARRIER

RESPONDENT NO. 1

DEATH & PERMANENT TOTAL
DISABILITY TRUST FUND

RESPONDENT NO. 2

OPINION FILED JUNE 20, 2006

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

Claimant represented by the HONORABLE E. BEN FRANKS,
Attorney at Law, Texarkana, Texas.

Respondents No. 1 represented by the HONORABLE LEE MULDROW,
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 on for review before the Commission on Respondent No. 2's Motion for Dismissal of Appeal to the Court of Appeals. The Full Commission rendered a decision on April 7, 2006. Respondent No. 2 filed a notice of appeal on May 2, 2006. Respondent No. 2 has not lodged the record with the Court of Appeals, nor have they paid the filing fee. Thus they have not yet perfected the appeal to the

Court of Appeals. Respondent No. 2 now seeks a dismissal of its appeal. The other parties have jointly stipulated to dismiss the appeal.

After duly considering 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 while the notice of appeal has already been filed, the record has not been lodged with the Court of Appeals. Accordingly, we grant Respondent No. 2's Motion to Dismiss its Appeal.

_____IT IS SO ORDERED.

OLAN W. REEVES, Chairman

SHELBY W. TURNER, Commissioner

KAREN H. MCKINNEY, Commissioner