

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NOS. D601189 & D614780

EDWARD WARREN, EMPLOYEE	CLAIMANT
ALEXANDER YOUTH SERVICES CENTER, EMPLOYER	RESPONDENT NO. 1
PUBLIC EMPLOYEE CLAIMS, INSURANCE CARRIER	RESPONDENT NO. 1
DEATH & PERMANENT TOTAL DISABILITY TRUST FUND	RESPONDENT NO. 2

OPINION FILED APRIL 11, 2007

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

Claimant represented by HONORABLE C. MICHAEL WHITE, North Little Rock, Arkansas.

Respondent represented by HONORABLE RICHARD S. SMITH Attorney at Law, Little Rock, Arkansas.

OPINION AND ORDER

This matter comes for review before the Commission on Respondent No. 1's Motion to Dismiss the Claimant's Appeal and the motion of the claimant's attorney to withdraw as counsel. After consideration of Respondent No. 1's motion, claimant's attorney's motion, claimant's response thereto, and all other matters properly before the Commission, we find that both motions should be granted.

The claimant appeals from the Administrative Law

Judge's November 29, 2006 decision. Mr. Michael White represented the claimant during that hearing. On February 23, 2007, the claimant filed an appeal of that decision. In the same correspondence, the claimant requested that Mr. White be removed as the attorney of record. Likewise, on March 2, 2007, Mr. White acknowledged the claimant's request that he be removed as counsel and agreed to the request.

On March 6, 2007, Respondent No. 1 submitted a Motion to Dismiss the Claimant's Appeal. The claimant sent a response thereto, indicating that he did not wish to continue his appeal. However, later in the letter, he indicated that he wanted Mr. White to be reinstated to his case because he had other issues regarding the case that he wished to pursue.

Pursuant to Ark. Code Ann. §11-9-711(a), an Administrative Law Judge's order becomes final, "unless a party to the dispute shall, within thirty (30) days from the receipt by him or her of the order or award, petition in writing for a review by the full commission of the order or award."

In this instance, there is a copy of a return receipt from the November 29, 2006 opinion. The receipt is stamped November 30, 2006, and is signed by Mr. White,

indicating that White had the opinion more than 30 days before the February 23, 2007, appeal. As such, we find that the claimant's appeal was untimely and must be dismissed.

As to the claimant's request that White be reinstated as attorney, we find that Mr. White's motion to be relieved as counsel is granted.

AWCC Advisory 2003-2 clearly states in pertinent part:

A lawyer may not withdraw from any proceeding or from representation of any party to a claim without permission of the Commission. Permission to withdraw may be granted for good cause shown if counsel seeking permission presents a proper request in writing to the Commission showing (a) that reasonable steps have been taken to avoid foreseeable prejudice to the rights of his/her client, including giving notice to his/her client, allowing time for employment of other counsel; and (b) that the attorney has delivered or stands ready to tender to the client all papers and property to which the client is entitled.

We find that Mr. White has complied with all the provisions of Advisory 2003-2, and despite the claimant's desire to have Mr. White continue representing him, we find that Mr. White's motion should be granted.

Accordingly, we find that Respondent No. 1's

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Motion to Dismiss Claimant's Appeal and the Motion to Withdraw as Claimant's Counsel should be, and hereby are, granted.

IT IS SO ORDERED.

OLAN W. REEVES, Chairman

PHILIP A. HOOD, Commissioner

KAREN H. MCKINNEY, Commissioner