

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F708337

BRITTANY PIGGEE, EMPLOYEE	CLAIMANT
KROGER, EMPLOYER	RESPONDENT
KROGER LIMITED PARTNERSHIP, INSURANCE CARRIER	RESPONDENT

ORDER FILED NOVEMBER 24, 2008

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

Claimant appeared pro se.

Respondents represented by the HONORABLE MICHAEL LEE
WRIGHT, Attorney at Law, Little Rock, Arkansas.

ORDER AND OPINION

This matter comes on for review before the Full Commission on respondent's Motion to Dismiss and Incorporated Brief. The respondent argues that the claimant, who represents herself pro se, did not timely file a brief to support her Notice of Appeal to the Full Commission.

The deadline for submission of briefs regarding this claim put forth by the Clerk of the Commission was October 24, 2008. The claimant was made aware of this deadline by the Clerk of the Commission. There is no evidence in the record that the claimant

submitted a brief in support of her claim before or after the October 24, 2008 deadline. While we agree with the respondent that the claimant did not submit a brief to support her appeal, a dismissal of the claimant's appeal would be a harsh and prejudicial sanction for something which is not required for the appeal. We find that the proper sanction for the claimant's failure to submit a brief is that the claimant's appeal is to be submitted to this Commission on the record, as stated in the Clerk of the Commission's October 9, 2008 letter to all parties to the dispute.

Accordingly, we deny the respondent's Motion to Dismiss.

Therefore, we find that the respondent's Motion to Dismiss should be, and hereby is, denied.

_____IT IS SO ORDERED.

OLAN W. REEVES, Chairman

KAREN H. MCKINNEY, Commissioner

PHILIP A. HOOD, Commissioner