

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F613171

CARLA GRANGER,
EMPLOYEE

CLAIMANT

GLOBAL MILLS, INC.,
UNINSURED EMPLOYER

RESPONDENT

OPINION FILED SEPTEMBER 29, 2009

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

Claimant represented by the HONORABLE J. MARK WHITE,
Attorney at Law, Fort Smith, Arkansas.

Respondent represented appears Pro Se.

OPINION AND ORDER

Comes on for consideration the claimant's motion to
dismiss Respondent's appeal. From the motion, response of
the Claimant, and other matters of law and fact known or
made know to the Full Commission, the Full Commission finds
as follows:

1. By letter filed August 24, 2009, the Pro Se
Respondent filed an appeal of the Full
Commission's decision entered July 28, 2009.
2. Respondent's August 24, 2009 letter did not appear
to bear an appropriate certificate of service as
required by Commission Rule 099.18 which provides

"shall be served upon all other known parties, and shall bear an appropriate certificate of service".

3. By response, Respondent alleges that it believed "the Clerk would file the appeal and would inform the Claimant's Counsel of the Appeal". The Clerk did inform Claimant's counsel of the appeal on August 27, 2009, prior to the expiration of Claimant's appeal deadline.
4. However, our Rule 099.18 does not control in this matter. Because the instant case concerns the filing of a Notice of Appeal to the Arkansas Court of Appeals, Rule 3 of the AR Rules of Appellate Procedure preempts our Rule 099.18. Rule 3(f) provides as follows:

Service of notice of appeal or cross-appeal. A copy of the notice of appeal or cross-appeal shall be served by counsel for appellant or cross-appellant upon counsel for all other parties by any form of mail which requires a signed receipt. If a party is not represented by counsel, notice shall be mailed to such party at his last known address.
Failure to serve notice does not affect the validity of the appeal. (Emphasis added)
5. In other words, while Workers' Compensation Commission Rule 099.18 would apply to any proceedings before the Full Commission, ARAP Rule

3 applies in this case and specifically provides that the failure to serve the notice will not affect the validity of appeal. See, Elcare, Inc. v. Gocio, 267 Ark. 605, 593 S.W.2d 159(1980) and Wise v. Barron, 280 Ark, 202, 655 S.W.2d 446 (1983). And therefore, the Commission finds that the claimant's motion to dismiss the Respondent's appeal should be, and hereby, is denied.

This claim shall continue in line for completion of the record and the parties will receive written notice of the transcript completion.

IT IS SO ORDERED.

A. WATSON BELL, Chairman

KAREN H. MCKINNEY, Commissioner

PHILIP A. HOOD, Commissioner