

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION  
WCC NO. H206545**

**JAMARSAE BAKER,  
EMPLOYEE**

**CLAIMANT**

**LEXICON HOLDING CO.,  
EMPLOYER**

**RESPONDENT**

**ACIG INS. CO.,  
CARRIER**

**RESPONDENT**

**RISK MANAGEMENT RESOURCES,  
THIRD PARTY ADMINISTRATOR**

**RESPONDENT**

**OPINION FILED APRIL 18, 2024**

Hearing conducted on Wednesday, April 3, 2024, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Steven Porch, in Little Rock, Pulaski County, Arkansas.

The Claimant, Mr. Jamarsae Baker, pro se, of North Little Rock, Arkansas, did not appear in person at the hearing.

The Respondents were represented by the Honorable Guy Wade, Little Rock, Arkansas.

**BACKGROUND**

This matter comes before the Commission on a Motion to Dismiss by Respondents. A hearing was conducted on April 3, 2024, in Little Rock, Arkansas. No testimony was taken in the case. Claimant, who according to Commission records is *pro se*, failed to appear at the hearing.

The Claimant worked for the Respondent/Employer as a laborer. The Claimant reported his injury to the Respondent/Employer the same day. Admitted into evidence was Commission Exhibit 1, pleadings, correspondence, and Certified U.S. Mail return receipts, consisting of fourteen pages. I have also blue-backed the Form AR-1, the Form AR-2, and Respondents' counsel's September 20, 2023, email.

The record reflects the following procedural history: On September 12, 2022, a Form AR-1 was filed in this case, reflecting that Claimant purportedly sustained multiple fractures to his right foot on August 29, 2022. He allegedly fractured his right foot while moving range pipe saddles when one top heavy saddle fell onto his right foot. The Claimant reported his injury to the Respondent/Employer the same day. Respondents on September 14, 2022, filed a Form AR-2, representing that the claim was under investigation. The Respondents hired Attorney Guy Wade to represent them on September 6, 2023. The Claimant has never filed a Form AR-C since the alleged injury date or demanded a hearing.

However, on September 11, 2023, Attorney Marie A. Crawford, located in Sherwood, Arkansas, entered an appearance on behalf of the Claimant's minor daughter, with the initials J.S.B., to receive temporary total disability benefits pursuant to *Ark. Code Ann.* § 11-9-812 (a)(1) (Repl. 2012). The Claimant was incarcerated at the time of this filing. During email correspondence between the Commission, Attorney Crawford, and Respondent's counsel, it was discovered that the Respondents paid temporary total disability benefits to the Claimant from August 30, 2022, through March 6, 2023, at which time he was released to full duty. The Respondents held the position that the Claimant was paid everything he was entitled to and was owed no more benefits. On October 10, 2023, Attorney Crawford filed a Motion for Leave to Withdraw as Counsel. The Motion was granted on the same day.

The Respondents next filed a Motion to Dismiss on December 5, 2023, requesting this claim be dismissed for lack of prosecution. The Claimant was sent notice of the Motion to Dismiss from the Commission on December 19, 2023, to 1909 Highway 161, Apartment 7, North Little Rock, Arkansas 72117, Claimant's last known address. After sending the first notice, the Commission soon learned of a second address for the Claimant at 702 East 49<sup>th</sup> Street, North Little

Rock, Arkansas 72117. A separate notice of the Motion to Dismiss was sent to that address on January 26, 2024. The Claimant did not respond to either notice in writing. Thus, in accordance with applicable Arkansas law, the Claimant was mailed due and proper legal notice of both the Respondents' Motion to Dismiss and the hearing notice at his current address of record via the United States Postal Service (USPS), First Class Certified Mail, Return Receipt Requested, and regular First-Class Mail. The certified notices were returned to the Commission unclaimed but the regular First-Class mail notices were not returned. The hearing took place on April 3, 2024. The Claimant did not show up to the hearing.

### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Therefore, after a thorough consideration of the facts, issues, the applicable law, and other relevant matters of record, including Commission Exhibit 1, pleadings, correspondence, and Certified U.S. Mail return receipts, consisting of fourteen pages, the blue-backed AR-1, AR-2, and Respondents' counsel's September 20, 2023, email, I hereby make the following findings:

1. The Commission has jurisdiction over this claim.
2. The Claimant and Respondents both had notice of the April 3, 2024, hearing.
3. The Claimant has not filed an initial or additional claim for benefits in this matter.
4. The Respondents' Motion to Dismiss should be denied.

### **DISCUSSION**

Consistent with both *Ark. Code Ann.* § 11-9-702(a)(4) and AWCC Rule 099.13, the Commission scheduled and conducted a hearing on the Respondents' Motion to Dismiss. I do find by the preponderance of the evidence that no claim exists when considering Commission's Exhibit 1, which contains pleadings, correspondence, and Certified U.S. Mail return receipts, and the blue-

backed Forms AR-1, AR-2, and Respondents' counsel's September 20, 2023, email, all of which are contained in the record. The Claimant has not filed a Form AR-C or submitted a letter claiming initial or additional benefits with the Commission since his alleged injury date of August 29, 2022. An AR-C is the means for filing a formal complaint with the Commission. However, based on an email by Respondent's counsel on September 20, 2023, which has been blue-backed and made a part of this record, initial benefits have been paid to the Claimant. Despite this, nothing in the Commissions' file show that a formal claim ever existed, not even for additional benefits. Even if I decided to recognize that other means exist to file a formal claim other than a Form AR-C, utilizing *Cook v. Southwestern Bell Telephone Company*, 21 Ark. App. 29, 727 S.W.2d 862 (1987), no correspondence fits this court's holding. The *Cook* court held that an attorney's correspondence notifying the Commission that he has been employed to assist a claimant in connection with unpaid benefits is sufficient to state a claim for additional compensation where the correspondence also lists the Claimant's name, the employer's name and the AWCC file number. My review of the evidence discloses no such correspondence that meets the requirements for a formal claim for additional benefits in this matter. The *Cook* case is a pre-1993 case, before the Workers' Compensation laws were updated, and has been superseded by statute when it comes to additional compensation. Claims for additional compensation must be stated specifically per *Ark. Code Ann.* § 11-9-702(c) (Repl. 2012), which reads:

A claim for additional compensation must **specifically** state that it is a claim for additional compensation. Documents which do not **specifically** request additional benefits shall not be considered a claim for additional compensation.

(Emphasis added) *See White Cty Judge v. Menser*, 2020 Ark. 140, 597 S.W.3d 640 (2020).

While Forms AR-1 and AR-2 were filed, and now blue backed and made a part of this record, they were still insufficient to instigate a claim for additional benefits. Neither document

specifically request additional benefits, which is required by the statute. Therefore, I find by the preponderance of the evidence that no formal claim has been filed in this matter. And since no claim has been filed, there is no claim subject to dismissal per Respondents' motion. Thus, Respondents' Motion to Dismiss must fail and is hereby denied.

**CONCLUSION**

Based on the Findings of Fact and Conclusions of Law set forth above, Respondents' Motion to Dismiss is denied.

**IT IS SO ORDERED.**

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Steven Porch  
Administrative Law Judge