

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. **G102482**

BURUJI AINAB, EMPLOYEE	CLAIMANT
SIMMONS PREPARED FOODS INC., EMPLOYER	RESPONDENT
SEDGWICK CLAIMS MANAGEMENT SERVICES INC., INSURANCE CARRIER	RESPONDENT

OPINION AND ORDER FILED **OCTOBER 6, 2022**

Hearing before ADMINISTRATIVE LAW JUDGE JOSEPH C. SELF, in Springdale, Washington County, Arkansas.

Claimant is not represented and did not appear at the hearing.

Respondents are represented by R. SCOTT ZUERKER, Attorney, Fort Smith, Arkansas

STATEMENT OF THE CASE

On September 15, 2022, the above captioned matter came before the Workers' Compensation Commission in Springdale, Arkansas for a hearing. A prehearing conference was held on July 28, 2022, and a prehearing Order filed that same date. Following the entry of that Order, claimant's attorney of record, Mr. Wesley Cottrell, filed a motion to be relieved as counsel for claimant pursuant to a written request Mr. Cottrell received from claimant. Mr. Cottrell stated in his Motion to Withdraw that he had provided a copy of claimant's entire file to her, which included a notice of the hearing that was scheduled for September 15, 2022. On August 11, 2022, an Order was entered allowing Mr. Cottrell to withdraw as the attorney for claimant.

On September 1, 2022, respondent's attorney and I attempted to contact claimant to ascertain if she was going to appear at the hearing on September 15, 2022. We spoke with her brother and obtained contact information for claimant from him. However, our efforts to reach her were unsuccessful. Respondent's attorney reported that a few days later, he and a Somali interpreter

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attempted to reach claimant and were again unsuccessful.

Because claimant had not advised that she was not coming to the hearing, and because the certified mail with the Order allowing her attorney to withdraw was returned as “unclaimed, unable to forward,” this matter remained on the docket for September 15, 2022, at 10:30 a.m. The hearing convened at 10:40 a.m. and claimant did not appear. Respondent appeared through its attorney, Scott Zuerker. After advising me of his efforts to determine if a hearing was going to be necessary, Mr. Zuerker moved to dismiss the action for claimant failing to present any evidence at the scheduled hearing to support her claim. That motion was denied, and respondent was advised to file a motion to dismiss for want of prosecution, which would be considered after notice was attempted to claimant at her last known address.

Therefore, it is Ordered that respondent’s Motion to Dismiss for failure to meet her burden of proof at the hearing is denied.

IT IS SO ORDERED.

JOSEPH C. SELF
ADMINISTRATIVE LAW JUDGE