

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. G904871

ROBERT L. CRENSHAW, EMPLOYEE CLAIMANT

TYSON POULTRY, INC.,
SELF-INSURED EMPLOYER RESPONDENT

TYNET, INC.,
CARRIER/TPA RESPONDENT

ORDER FILED JANUARY 19, 2022

Before the FULL COMMISSION in Little Rock, Pulaski County, Arkansas.

Claimant appeared *pro se*.

Respondents represented by the HONORABLE JEREMY SWEARINGEN,
Attorney at Law, Little Rock, Arkansas.

ORDER

Presently before the Full Commission is respondents' Motion to Dismiss Claimant's Appeal as untimely filed December 17, 2021.

The undisputed facts are straightforward. In the present case, Claimant received his copy of the decision rendered by the administrative law judge on November 5, 2021. Factoring in a weekend, the deadline to file a notice of appeal before the Full Commission was December 6, 2021. While claimant's Notice of Appeal was postmarked December 1, 2021, the Commission did not receive the claimant's Notice of Appeal until December 14, 2021. While it is unclear as to why it took the Post Office two weeks to deliver claimant's Notice of Appeal, it is incumbent upon claimant to ensure that his appeal is not only mailed but timely filed. That he did not do.

The controlling factor is the date such notice is received by the Arkansas Worker's Compensation Commission and not the date of mailing as claimant would assert. Further, respondent correctly cites Williams v. Luft Construction Company, 31 Ark App. 198, 790 S.W. 2d 921 (1990). In the Williams case, the appeal was lost and not timely filed because it was lost in the mail. Denying such appeal may seem harsh but the Court of Appeals ruled that failure of the claimant to file timely notice of appeal with the Workers' Compensation Commission deprived the Court of Appeals of jurisdiction.

Based upon the case law, the Full Commission has no other choice but to grant respondents' Motion to Dismiss Claimant's Appeal as untimely filed. Therefore, respondents' Motion to Dismiss Claimant's Appeal is hereby granted.

IT IS SO ORDERED.

SCOTTY DALE DOUTHIT, Chairman

CHRISTOPHER L. PALMER, Commissioner

M. SCOTT WILLHITE, Commissioner