

September 7, 2021

Sent certified 7020 1810 0000 9854 8360

Dion Ray Dutcher
3331 W. Bitterroot St.
Sioux Falls, SD 57108

**LETTER DECISION ON MOTION TO
DISMISS FOR FAILURE TO PROSECUTE**

Tracye L. Sherrill
Lynn, Jackson, Shultz & Lebrun, PC
110 N. Minnesota Ave., Ste. 400
Sioux Falls, SD 57104

RE: HF No. 86, 2018/19 – Dion Ray Dutcher v. A Plus Concrete Construction, Inc. and
SFM Mutual Insurance Company

Greetings:

I am in receipt of Employer and Insurer's Motion to Dismiss for Failure to Prosecute. Claimant was given the opportunity to respond to the Motion but did not do so. The deadline to respond to the Motion was August 10, 2021.

ARSD 47:03:01:09 allows the Department of Labor and Regulation discretion in dismissing a workers' compensation claim if there "has been no activity for at least one year, unless good cause is shown to the contrary."

As the record does not show any activity by Mr. Dutcher since February 10, 2020, the Department hereby Orders that Employer and Insurer's Motion to Dismiss for Failure to Prosecute is granted. This Worker's Compensation Hearing File No. 86 2018/19 is dismissed without prejudice.

The Parties may consider this Letter to be the Order of the Department. This is the final decision in this matter unless you appeal in one of two ways:

- (1) The decision is appealed directly to circuit court within 30 days after the date of this decision, OR
- (2) A request for a Department of Labor and Regulation review is filed by mailing a letter of appeal to the Secretary, S.D. Department of Labor and Regulation, 123 W. Missouri Ave., Pierre, SD 57501 within 10 days after the date of this decision. The Secretary's Decision may be appealed to circuit court within 30 days after the date of the Secretary's decision.

If you have any questions regarding this Letter Order of Dismissal, please contact this office.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michelle M. Faw". The signature is written in a cursive style with a wavy underline.

Michelle M. Faw
Administrative Law Judge