

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

AWCC FILE No H202322

JOWENDEAN M. BLACKWELL, EMPLOYEE

CLAIMANT

L & R DISTRIBUTORS, EMPLOYER

RESPONDENT

**FIRST LIBERTY INSURANCE CORP./
LIBERTY MUTUAL GROUP, CARRIER/TPA**

RESPONDENT

OPINION FILED 20 NOVEMBER 2023

Heard before Arkansas Workers' Compensation Commission (AWCC) Administrative Law Judge JayO. Howe, 15 November 2023, Little Rock, Arkansas.

Ms. Jowendean M. Blackwell appeared *pro se*.

Mr. Zachary M. Ryburn, Attorney-at-Law of Little Rock, Arkansas, appeared for the respondents.

STATEMENT OF THE CASE

A hearing on the respondents' Motion to Dismiss was held on this matter in Little Rock, Arkansas, on 15 November 2023. The Commission's file was incorporated by reference at the hearing.

This case relates to a workplace injury from 18 January 2022. A First Report of Injury was filed with the Commission on 21 March 2022, listing an injury to the claimant's hand. A Form AR-C was later filed on 20 May 2022, claiming that the employee sustained a gradual onset injury to her right hand and thumb. In an email sent to the Commission that same day, claimant's counsel, Mr. Mark Alan Peoples, asserted that the date provided on the Form AR-C was an approximate date for the gradual onset injury and that a precise date of onset was uncertain.

The parties proceeded in litigating this claim, and a prehearing telephone conference was conducted on 6 December 2023. A Prehearing Order was subsequently issued with a

hearing date set for 9 February 2023. By way of a 30 January 2023 email from counsel, the claimant sought to withdraw her request for a hearing. That request was granted and the matter was returned to the Clerk's Office.

A Joint Petition was later proposed and set for consideration on 5 April 2023. The Commission received a request to remove the hearing from the docket and confirmed the same action via letter on 13 March 2023. On 26 May 2023 the respondents filed a Motion to Dismiss under Arkansas Code Annotated § 11-9-702 and/or Rule 099.13 of the Arkansas Workers' Compensation Act for the claimant's failure to prosecute this claim. Another Joint Petition was submitted but then pulled back from the docket. Mr. Peoples requested to withdraw his representation, and that request was granted in a 13 September 2023 Order from the Full Commission.

The respondents renewed their Motion to Dismiss on 15 September 2023, and the matter was set for a hearing on 15 November 2023. The claimant appeared to resist the motion to dismiss, urged that the case be allowed to proceed, and requested a full hearing on her claim. She stated that she spoke with the Legal Advisors Division about opposing the motion and decided to appear in person for that purpose rather than risk some defect in a filing to that end. The current procedural posture, relevant rules and procedures, and possible next steps were discussed with the parties from the bench. The claimant was reminded of her right to counsel and the availability of the Legal Advisors Division as a potential resource should she continue proceeding *pro se*. I advised the claimant that the Motion would be held in abeyance pending efforts by the parties to move towards a hearing.

Around the time relevant to the rules applying to a Motion to Dismiss an action, attempts were made to bring this claim to resolution through a Joint Petition. Based on the record, the available evidence, and the arguments and discussion presented at the hearing, I

find that the respondents' Motion to Dismiss should be held in abeyance pending the claimant's pursuit of prosecuting her claim.

ORDER

A ruling on the respondents' Motion is hereby held in abeyance pending further action on the claim.

SO ORDERED.

JAYO. HOWE
ADMINISTRATIVE LAW JUDGE