

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**CLAIM NO. H204111**

**PEGGY CLEMONS, EMPLOYEE**

**CLAIMANT**

**SOUTH CONWAY COUNTY SCHOOL  
DISTRICT, EMPLOYER**

**RESPONDENT**

**ARKANSAS SCHOOL BOARDS ASSOCIATION,  
CARRIER / TPA**

**RESPONDENT**

**OPINION FILED AUGUST 8, 2023**

**Hearing before Administrative Law Judge James D. Kennedy on June 27, 2023, in Little Rock, Pulaski County, Arkansas.**

**Claimant is *pro se* and appeared on her own behalf.**

**Respondents are represented by Ms. Carol Lockard Worley, Attorney-at-Law of Little Rock, Arkansas.**

**STATEMENT OF THE CASE**

A hearing was held in the above-styled matter on June 27th, 2023, in Little Rock, Arkansas, on respondents' Motion to Dismiss for failure to prosecute pursuant to Arkansas Code Annotated §11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act. The claimant filed an AR-C on or about June 6, 2022, contending that she had been injured on February 9, 2022, while loading car riders into their cars at the end of a school day, slipping on ice, and injuring her "foot, ears loudly ringing, with upper and lower back pain." The respondents filed an AR-2 dated June 7, 2022, which provided that the claim was medical only. The claimant's retained counsel, Evelyn Brooks, of Fayetteville Arkansas, withdrew as the attorney-of-record on August 8, 2022, after obtaining an Order from the Full Commission.

On or about April 12, 2023, the respondents filed a Motion to Dismiss For Failure to Prosecute, and contended that the claimant had not sought any type of *bona fide*

hearing before the Arkansas Workers' Compensation Commission over the last six (6) months and that, consequently, the matter should be dismissed for failure to prosecute pursuant to Rule 099.13 of the Arkansas Workers' Compensation and also pursuant to Ark. Code Ann. §11-9-702. There was no record of the claimant filing a response to the Motion to Dismiss and the hearing was set for June 27, 2023.

On the date of the hearing, the respondents were ably represented by Ms. Carol Worley who provided that the claim had been accepted as compensable and that appropriate benefits were paid. The claimant appeared *pro se*. The respondents introduced medical records which provided that the claimant had received an MRI that was read as unremarkable, that Dr. Head released the claimant to return to work in a full-duty position on April 18, 2022, and that claimant was released at full capacity on April 21, 2022. Dr. Baskin opined that the claimant had reached MMI on May 26, 2022. The respondents filed a Motion to Dismiss and consequently, a prehearing questionnaire and notice was sent to the parties by the Commission. The questionnaire was answered by the respondents, but the claimant failed to respond.

The claimant testified at the hearing that, "since I fell my thoughts are really confused." "When I fell, I immediately noticed a lack of genuine care and concern for my injuries." "I mean, I was in pain. I couldn't tell them, I couldn't explain anything. I got that too. So there was a lack of response that day and no concern whatsoever, but I knew that I had to keep saying it, so every time I went to the doctor, I repeated the same thing over and over and over." The claimant also provided she had to go to the dentist, that she had COPD, that she trained for a 5K as a gift to herself when she turned fifty (50), and that she may have been diagnosed with a type of cancer and may have an issue with her kidneys.

After claimant’s testimony and after the respondents again requested that the matter be dismissed, the claimant was instructed that the matter would be taken under advisement for approximately thirty (30) days and that she needed to find someone to assist her in pursuing her claim.

From a review of the file, it appears that the claimant filed a “Preliminary Notice” on or about July 11, 2023, which has been blue-backed and attached hereto.

After a review of the record as a whole, to include all evidence properly before the Commission, and having an opportunity to hear the statements of the attorney for the respondents as well as the claimant’s statements, I find that the Motion to Dismiss will be held in abeyance at this time and that the claimant is ordered to appropriately respond to the Prehearing Questionnaire and any outstanding discovery within twenty (20) days of this Order. Further, the claimant shall take the steps as required by the Arkansas Workers’ Compensation Act that she deems appropriate to pursue her claim, which may include obtaining counsel. Failure to do so may result in a request to renew the Motion to Dismiss and will leave no alternative but to take the appropriate action as spelled out in the Arkansas Workers’ Compensation Act.

**ORDER**

Pursuant to the above statement of the case, I have no alternative but to find that the Motion to Dismiss shall be held in abeyance at this time and that the claimant is ordered to appropriately respond to the Prehearing Questionnaire and any other outstanding discovery within twenty (20) days of this Order and further to take the steps the claimant deems appropriate to pursue her claim pursuant to the Arkansas Workers Compensation Act which may include obtaining counsel. Failure to do so may result in a

request to renew the Motion to Dismiss and will leave no alternative but for the appropriate action to be taken pursuant to the Arkansas Workers' Compensation Act.

IT IS SO ORDERED.

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JAMES D. KENNEDY  
ADMINISTRATIVE LAW JUDGE