

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

AWCC FILE No H207073

BRANDON E. LOGNION, EMPLOYEE

CLAIMANT

GOOD DAY FARMS, LLC, EMPLOYER

RESPONDENT

**CLEAR SPRING PROPERTY & CASUALTY CO./
CCMSI, CARRIER/TPA**

RESPONDENT

OPINION FILED 30 NOVEMBER 2023

Heard before Arkansas Workers' Compensation Commission (AWCC) Administrative Law Judge JayO. Howe, 29 November 2023, Little Rock, Pulaski County, Arkansas.

The *pro se* claimant failed to appear.

Mr. Guy Alton Wade, 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 29 November 2023. This case relates to a workplace injury sustained on 16 May 2022. A Form AR-C, dated 16 May 2022, was first filed with the Commission on 30 September 2022 claiming a lower back injury. A Form AR-2 was filed with the Commission on 27 October 2022, accepting the medical-only claim.

On 23 June 2023 and again on 23 August 2023, the Clerk of the Commission filed letter Motions from the respondents, originally dated 20 June 2023, requesting that this matter be dismissed for lack of prosecution. Notice of the respondents' Motion and then notice of a hearing date for that Motion were sent to the claimant on 24 August 2023 and 13 October 2023, respectively. I will note that it is the Commission's practice for any mail sent to a claimant and returned as undeliverable to affix those mailings in the Commission's file. As mentioned at the hearing, no returned mailings are included in this file.

Before the hearing began, counsel for the respondents called into the waiting area at the Commission for the claimant, but no one answered or asked to be heard on the claimant's behalf. As argued by the respondents at the hearing, the file reflects no request for a hearing on a claim in the relevant time preceding the filing of that Motion. Notice of that Motion and notice of the hearing on that Motion were sent to the address provided by the claimant, and the claimant chose not to appear to resist the Motion to Dismiss this action. The respondents appeared, presented their Motion, and offered supporting evidence into the record.

Arkansas Code Annotated § 11-9-702(a)(4) states that a matter may be dismissed without prejudice after six (6) months without a *bona fide* request for a hearing. Commission Rule 099.13 provides for a dismissal for failure to prosecute an action upon application by either party. Based on the record, the available evidence, and the arguments of the respondents' counsel, I find that the respondents' Motion to Dismiss should be granted and that the matter should be dismissed without prejudice.

VI. ORDER

The Motion to Dismiss is GRANTED, and this matter is DISMISSED WITHOUT PREJUDICE.

SO ORDERED.

JAYO. HOWE
ADMINISTRATIVE LAW JUDGE