

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION**

**AWCC FILE N<sup>o</sup> H404694**

**CLAYTON B. ABEL, EMPLOYEE**

**CLAIMANT**

**EASTER SEALS ARKANSAS, EMPLOYER,**

**RESPONDENT**

**ATA WORKERS' COMP SI TRUST, CARRIER/  
RISK MANAGEMENT RESOURCES, TPA**

**RESPONDENT**

---

**OPINION FILED 17 DECEMBER 2024**

---

Heard before Arkansas Workers' Compensation Commission (AWCC) Administrative Law Judge JayO. Howe on 11 December 2024 in Little Rock, Arkansas.

The *pro se* claimant did not appear.

Worley, Wood & Parrish, P.A., Mr. Jarrod Parrish, 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 11 December 2024. This case relates to an alleged workplace injury sustained on or about 10 October 2022. A First Report of Injury was filed by the respondents on 25 July 2024, and A Form AR-2 was filed the same day, denying that the claimant was employed by the respondent. Prior to those filings, a Form AR-C was filed by the claimant, on 23 July 2023, claiming injuries to the claimant's shoulder. See Respondents' Exhibit N<sup>o</sup> 1.

The respondents filed a Motion to Dismiss for Failure to Prosecute on 11 October 2024, citing the applicable rule. The respondents appeared on 11 December 2024, presented their motion, and offered supporting evidence into the record.

The claimant did not appear. However, correspondence from the claimant's mother was entered into the record. See Commission's Exhibit N<sup>o</sup> 1. In telephone and email

correspondence with the Commission, the claimant's mother stated that she was acting on behalf of the claimant after some attempts to retain counsel. She advised that the claimant objected to the dismissal of the claim and noted that difficulties with travel arrangements prevented their appearance. She requested additional time to prosecute the claim.

Commission Rule 99.13 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 denied without prejudice at this time.

If the claimant is unable to retain counsel, he may seek assistance in prosecuting his claim through the Commission's Legal Advisor Division. Correspondence will be sent from this office to the parties in anticipation of litigation continuing in this matter.

**ORDER**

The Motion to Dismiss is DENIED WITHOUT PREJUDICE.

**SO ORDERED.**

---

JAYO. HOWE  
ADMINISTRATIVE LAW JUDGE