

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H101867

THURN K. APPLE, EMPLOYEE

CLAIMANT

WHITE RIVER AREA AGENCY ON AGING, EMPLOYER

RESPONDENT

**AGING SERVICES FUND/
RISK MANAGEMENT SERVICES, CARRIER/TPA**

RESPONDENT

OPINION FILED FEBRUARY 27, 2024

Hearing before Administrative Law Judge James D. Kennedy in Mountain Home, Baxter County, Arkansas, on February 21, 2024.

Claimant is *pro se* and failed to appear.

Respondents are represented by Mr. Jarrod S. Parrish, Attorney-at-Law of Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held in the above-styled matter on February 21, 2024, in Mountain Home, Arkansas, on respondents' Motion to Dismiss for failure to prosecute pursuant to Rule 099.13 of the Arkansas Workers' Compensation Act. The claimant was *pro se* and failed to appear for the hearing. The claimant had filed multiple Form AR-Cs on the following dates: February 23, 2021; March 1, 2021; January 10, 2023; and June 5, 2023. The employer had filed a First Report of Injury on February 8, 2021, stating that the claimant had slipped and fell while going down the steps of a client. The Form AR-N filed on the same date provided that the claimant had injured her "butt, left hip, neck, back, arms, head, and left ankle." The Form AR-2 filed on February 26, 2021, provided that the respondent was controverting the claim, contending that the claim did not occur within the course and scope of employment. An Opinion by the Full Commission dated September 20, 2023, adopted the Opinion issued by the administrative law judge that held that the claimant had been assigned a five percent (5%) rating to the body as a whole, which had been accepted by the respondents with all

appropriate benefits paid, that the claimant was entitled to wage-loss in the amount of five percent (5%) and attorney fees, but was not entitled to permanent and total disability. The claimant was originally represented by Laura Beth York, who was allowed to withdraw by an Order from the Full Commission dated December 1, 2023. A Motion to Dismiss was filed on October 16, 2023, requesting that the matter be dismissed for failure to prosecute pursuant to Commission Rule 099.13. The claimant has not requested an additional hearing to date and there is no record of her contacting the Commission after the date her attorney was allowed to withdraw.

Appropriate notice was provided to the claimant notifying her that a hearing on the Motion to Dismiss was set for February 21, 2024, in Mountain Home, Arkansas. The claimant did not file a response and failed to appear on the hearing date. At the time of the hearing, Jarrod S. Parrish appeared on behalf of the respondents and asked that the matter be dismissed for lack of prosecution.

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 respondent, I find that this matter should be dismissed without prejudice, for failure to prosecute pursuant to Ark. Code Ann. §11-9-702 and Rule 099.13 of the Arkansas Workers' Compensation Act.

ORDER

Pursuant to the above statement of the case, there is no alternative but to dismiss this claim in its entirety, without prejudice, for failure to prosecute.

IT IS SO ORDERED.

JAMES D. KENNEDY
ADMINISTRATIVE LAW JUDGE